

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-11358
Conference Calendar

United States Court of Appeals
Fifth Circuit

FILED

September 13, 2018

UNITED STATES OF AMERICA,

Lyle W. Cayce
Clerk

Plaintiff-Appellee

v.

ROBERTO CARLOS PUEBLA SAAVEDRA,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:16-CR-357-3

Before HIGGINSON, COSTA, and HO, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Roberto Carlos Puebla Saavedra has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *United States v. Flores*, 632 F.3d 229 (5th Cir. 2011). Puebla Saavedra has not filed a response. We have reviewed counsel's brief and the relevant portions of the record reflected therein. Counsel has not clearly certified, pursuant to *United States v.*

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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Acquaye, 452 F.3d 380, 382 (5th Cir. 2006), whether the Government intends to enforce the appeal waiver. Counsel’s statement that he “has no indication that the Government will fail to invoke [the] appellate waiver” does not adequately show enforceability of the waiver. *See id.* at 382. Even so, we concur with counsel’s assessment that the appeal presents no nonfrivolous issue for review as to Puebla Saavedra’s conviction or sentence, and we therefore pretermitt the non-jurisdictional waiver issue. *See United States v. Story*, 439 F.3d 226, 230-31 (5th Cir. 2006). Accordingly, counsel’s motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.