

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

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No. 17-40544  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

February 1, 2018

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

EDGAR HECTOR RODRIGUEZ-FALCON,

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:17-CR-156-1

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Before KING, ELROD, and HIGGINSON, Circuit Judges.

PER CURIAM:\*

The Federal Public Defender appointed to represent Edgar Hector Rodriguez-Falcon 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). Rodriguez-Falcon has filed a response. The record is not sufficiently developed to allow us to make a fair evaluation of Rodriguez-Falcon's claim of ineffective assistance of counsel; we therefore

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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decline to consider the claim without prejudice to collateral review. *See United States v. Isgar*, 739 F.3d 829, 841 (5th Cir. 2014).

Rodriguez-Falcon also argues that the Bureau of Prisons failed to credit him for time served in jail before his conviction. The method for computing a federal prisoner's sentence is controlled by 18 U.S.C. § 3585, but responsibility for calculating detention credit lies with the Attorney General, through the BOP, and not the courts. *United States v. Wilson*, 503 U.S. 329, 337 (1992). Before appealing his sentence calculation, Rodriguez-Falcon must first seek administrative review through the BOP's Administrative Remedy Program. *See United States v. Setser*, 607 F.3d 128, 133 (5th Cir. 2010). Once Rodriguez-Falcon "has exhausted his administrative remedies, he may file a pro se petition for habeas relief under 28 U.S.C. § 2241, challenging the BOP's computation of his sentence." *Id.* at 133 n.3 (quotation marks and modification omitted).

We have reviewed counsel's brief and the relevant portions of the record reflected therein, as well as Rodriguez-Falcon's response. We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review. Accordingly, the 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.