

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

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No. 18-40125  
Conference Calendar

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United States Court of Appeals  
Fifth Circuit  
**FILED**  
December 20, 2018  
Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

JOSE GOMEZ-ROCHA,

Defendant - Appellant

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:16-CR-93-5

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Before REAVLEY, OWEN, and GRAVES, Circuit Judges.

PER CURIAM:\*

The attorney appointed to represent Jose Gomez-Rocha 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). Gomez-Rocha has moved for leave to file an out of time response. We grant Gomez-Rocha's motion and have considered his response. Gomez-Rocha's

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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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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request for appointment of a new appellate attorney is untimely and is denied. *See United States v. Wagner*, 158 F.3d 901, 902-03 (5th Cir. 1998).

The record is not sufficiently developed to allow us to make a fair evaluation of Gomez-Rocha's claims of ineffective assistance of counsel; we therefore decline to consider the claims without prejudice to collateral review. *See United States v. Isgar*, 739 F.3d 829, 841 (5th Cir. 2014). After reviewing counsel's brief and the relevant portions of the record reflected therein, as well as Gomez-Rocha's response, we concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review.

In accordance with the foregoing, Gomez-Rocha's motion for leave to file an out of time response is GRANTED, Gomez-Rocha's motion for the appointment of new appellate counsel DENIED, 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.*