

United States Court of Appeals  
for the Fifth Circuit

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No. 22-20628  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

August 23, 2023

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

DAVID PENALOZA-NIETO,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:22-CR-224-1

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Before SMITH, HIGGINSON, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:\*

The Federal Public Defender appointed to represent David Penaloza-Nieto has moved to withdraw and has filed a brief per *Anders v. California*, 386 U.S. 738 (1967), and *United States v. Flores*, 632 F.3d 229 (5th Cir. 2011). Penaloza-Nieto has not filed a response.

We have reviewed counsel's brief and relevant portions of the record.

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\* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

No. 22-20628

We concur with counsel's assessment that the appeal presents no non-frivolous issue for appellate review. Accordingly, the motion to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the appeal is DISMISSED. *See* 5TH CIR. R. 42.2.