

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

April 21, 2023

Lyle W. Cayce
Clerk

No. 22-40221
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DANIEL MORALES HINOJOSA,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:20-CR-786-4

Before HIGGINBOTHAM, GRAVES, and HO, *Circuit Judges.*

PER CURIAM:*

The attorney appointed to represent Daniel Morales Hinojosa 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). Morales Hinojosa has filed an untimely response, in which

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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he asks this court to remove appointed counsel, strike counsel's pleadings and motions, and allow him to proceed pro se. A judge of this court previously ordered Morales Hinojosa to notify this court clearly and unequivocally whether he wished to proceed pro se on appeal. Morales Hinojosa has not filed a response or otherwise complied with that order. To the extent that Morales Hinojosa requests leave to file an out-of-time response, his motion is GRANTED. His motions to proceed pro se, remove appointed counsel, and strike counsel's pleadings are DENIED. *See* FIFTH CIRCUIT PLAN UNDER THE CRIMINAL JUSTICE ACT § 5(B); *see also* 18 U.S.C. § 3006A(c).

We have reviewed counsel's brief and the relevant portions of the record reflected therein, as well as Morales Hinojosa's response. The record is not sufficiently developed to allow us to make a fair evaluation of Morales Hinojosa'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). We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review. 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.