

United States Court of Appeals
for the Fifth Circuit

No. 23-20320
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 21, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DOMINGO RIOS-HERNANDEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:20-CR-362-1

Before JONES, SOUTHWICK, and HO, *Circuit Judges.*

PER CURIAM:*

The Federal Public Defender appointed to represent Domingo Rios-Hernandez 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). Rios-Hernandez has submitted a letter

* Pursuant to 5th Circuit Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Circuit Rule 47.5.4.

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to counsel that we construe as a response. We have reviewed counsel's brief and the relevant portions of the record reflected therein, as well as Rios-Hernandez's response. 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.

As counsel asserts, however, there is a clerical error in the judgment. The written judgment does not reflect the district court's oral recommendation that the Bureau of Prisons (BOP) evaluate Rios-Hernandez to determine if he should be sent to a BOP medical facility for treatment of his health condition. Accordingly, we REMAND for correction of the clerical error in the written judgment in accordance with Federal Rule of Criminal Procedure 36. *See United States v. Powell*, 354 F.3d 362, 371-72 (5th Cir. 2003).