

United States Court of Appeals for the Fifth Circuit

No. 23-40169
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 5, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOSEPH CHURCH,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 3:17-CR-25-1

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

PER CURIAM:*

The attorney appointed to represent Joseph Church 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).

* Pursuant to 5th Circuit Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Circuit Rule 47.5.4.

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Church's untimely motion for appointment of substitute counsel is DENIED. *See United States v. Wagner*, 158 F.3d 901, 902-03 (5th Cir. 1998).

Church's untimely response, which we have construed as a motion for leave to file an out-of-time response to the *Anders* brief, raises issues that are beyond the scope of the remand in this case and is DENIED.

The record is not sufficiently developed to allow us to make a fair evaluation of Church's unspecified claim of ineffective assistance of counsel; we therefore decline to consider it without prejudice to collateral review. *See United States v. Isgar*, 739 F.3d 829, 841 (5th Cir. 2014).

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