

United States Court of Appeals
for the Fifth Circuit

No. 23-40179
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
February 27, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

HECTOR DAVID LOPEZ MARTINEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:19-CR-323-1

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

PER CURIAM:*

The attorney appointed to represent Hector David Lopez Martinez 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). Lopez Martinez has filed a response. We have reviewed counsel's brief and the relevant portions of the record reflected therein, as

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

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well as Lopez Martinez's response, which we directed counsel to have translated into English. *See United States v. Moreno-Torres*, 768 F.3d 439, 441 n.2 (5th Cir. 2014).

It is dispositive that the Government has declined to waive the untimeliness of the appeal. *See United States v. Pesina-Rodriguez*, 825 F.3d 787, 788 (5th Cir. 2016) (per curiam). Accordingly, without prejudice to a future 28 U.S.C. § 2255 motion that Lopez Martinez may file, 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.*