

United States Court of Appeals for the Fifth Circuit

No. 23-50189
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

June 26, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JIMMY DWAYNE SMITH,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:22-CR-179-1

Before WILLETT, DUNCAN, and RAMIREZ, *Circuit Judges*.

PER CURIAM:*

The attorney appointed to represent Jimmy Dwayne Smith 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). Smith has filed a response. We have reviewed counsel's brief and the relevant portions of the record reflected therein, as well as Smith's

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

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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. Smith's motion to appoint new counsel is DENIED as untimely. *See United States v. Wagner*, 158 F.3d 901, 902-03 (5th Cir. 1998).