

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

June 20, 2013

Lyle W. Cayce
Clerk

No. 12-41255

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JORGE JAVIER GUTIERREZ-MATAMOROS, also known as Mario Javier
Gutierrez-Matamoros,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:12-CR-993-1

Before REAVLEY, JOLLY, and DAVIS, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent Jorge Javier Gutierrez-Matamoros 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). Gutierrez-Matamoros has filed a response. To the extent that Gutierrez-Matamoros challenges trial counsel's effectiveness for failing to challenge the enhancements based on the age of his prior

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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convictions, the issue can be addressed and presents no nonfrivolous issue. *See Clark v. Collins*, 19 F.3d 959, 966 (5th Cir. 1994) (counsel does not render ineffective assistance by failing to make meritless objections). To the extent that Gutierrez-Matamoros's claims of ineffective assistance of counsel go beyond that, the record is insufficiently developed to allow consideration at this time of his claims; such claims generally "cannot be resolved on direct appeal when [they have] not been raised before the district court since no opportunity existed to develop the record on the merits of the allegations." *United States v. Cantwell*, 470 F.3d 1087, 1091 (5th Cir. 2006) (internal quotation marks and citation omitted). We have reviewed counsel's brief and the relevant portions of the record reflected therein, as well as Gutierrez-Matamoros's response. We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review. Accordingly, the 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.