

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

United States Court of Appeals
Fifth Circuit

FILED

January 25, 2011

Lyle W. Cayce
Clerk

No. 10-10098
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

TOMMIE JOE HAMILTON,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:09-CR-234-1

Before DAVIS, SMITH and SOUTHWICK, Circuit Judges.

PER CURIAM:*

The Federal Public Defender (FPD) appointed to represent Tommie Joe Hamilton has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Hamilton has filed a response as well as a motion for leave to file a supplemental response. The record is insufficiently developed to allow consideration at this time of Hamilton's claims of ineffective assistance of counsel; such claims generally "cannot be resolved on direct appeal when [they have] not been raised before the district court since no

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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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). Our independent review of the record, counsel’s brief, and Hamilton’s responses discloses no nonfrivolous issue for appeal. Accordingly, Hamilton’s motion to file a supplemental response is GRANTED, the FPD’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.