

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

United States Court of Appeals
Fifth Circuit

FILED

October 21, 2011

Lyle W. Cayce
Clerk

No. 10-11162
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

HOSAM MAHER HUSEIN SMADI,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:09-CR-294-1

Before BENAVIDES, DENNIS, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent Hosam Maher Husein Smadi 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). Smadi has filed a response. To the extent that Smadi contends that his guilty plea was due to “scare tactics” or made under coercion and duress, the record is insufficiently developed to permit consideration of such a claim. *See United States v. Corbett*, 742 F.2d 173, 176-78 (5th Cir. 1984).

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Smadi may raise such a claim in a 28 U.S.C. § 2255 motion. *See id.* at 178 n.11. Likewise, the record is insufficiently developed to allow consideration at this time of Smadi’s claim of ineffective assistance of counsel; such a claim generally “cannot be resolved on direct appeal when the claim has 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 Smadi’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, Smadi’s motion for appointment of new counsel is DENIED, and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.