

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

United States Court of Appeals
Fifth Circuit

FILED

November 17, 2010

Lyle W. Cayce
Clerk

No. 10-20099
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

LUIS FERNANDO SAN MARTIN, also known as Luis Fernandez Martinez, also known as Luis Fernando Martinez,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:09-CR-264-1

Before WIENER, PRADO, and OWEN, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent Luis Fernando San Martin has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). San Martin has filed a response. The record is insufficiently developed to allow consideration at this time of San Martin's claims of ineffective assistance of counsel; such claims generally "cannot be resolved on direct appeal when [they have] not been raised before the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 10-20099

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). Our independent review of the record, counsel’s brief, and San Martin’s response disclose no nonfrivolous issue for appeal. 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.