

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

United States Court of Appeals
Fifth Circuit

FILED
July 24, 2012

No. 11-41065
Summary Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

EUGENIA ORTIZ-PENA, also known as Oralia Balderas,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:11-CR-501-1

Before SMITH, DENNIS, and HAYNES, Circuit Judges.

PER CURIAM:*

The Federal Public Defender (FPD) appointed to represent Eugenia Ortiz-Pena 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). Ortiz-Pena has filed a response and has moved to relieve appointed counsel and to appoint new counsel.

To the extent that Ortiz-Pena raises claims of ineffective assistance of counsel, the record is insufficiently developed to allow consideration at this time

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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of her claims; such claims generally “cannot be resolved on direct appeal when the claim[s] ha[ve] 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 Ortiz-Pena’s response. We concur with counsel’s assessment that the appeal presents no nonfrivolous issue for appellate review. Ortiz-Pena’s motion to relieve counsel and appoint new counsel is DENIED. 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.