

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

July 19, 2022

Lyle W. Cayce  
Clerk

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No. 21-51170  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

LUCIANO DIAZ-CONTRERAS,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 7:17-CR-113-2

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Before STEWART, DUNCAN, and WILSON, *Circuit Judges.*

PER CURIAM:\*

The attorney appointed to represent Luciano Diaz-Contreras 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). Diaz-Contreras has not filed a response.

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 21-51170

We have reviewed counsel's brief and the relevant portions of the record reflected therein. It is dispositive that the Government has declined to waive the untimeliness of Diaz-Contreras's appeal. *See United States v. Pesina-Rodriguez*, 825 F.3d 787, 788 (5th Cir. 2016). We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review. Accordingly, counsel'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. The Government's motion to dismiss is DENIED AS MOOT.