

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

January 8, 2021

Lyle W. Cayce
Clerk

No. 20-10717
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MEARVIN EUGENE HAMILTON,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:20-CR-26-1

Before KING, SOUTHWICK, and HO, *Circuit Judges.*

PER CURIAM:*

The Federal Public Defender appointed to represent Mearvin Eugene Hamilton 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). Hamilton has filed a response and an incorporated

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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motion to appoint new counsel, which is DENIED. *See United States v. Wagner*, 158 F.3d 901, 902-03 (5th Cir. 1998). The record is not sufficiently developed to allow us to make a fair evaluation of Hamilton's claim of ineffective assistance of counsel; we therefore decline to consider the claim without prejudice to collateral review. *See United States v. Isgar*, 739 F.3d 829, 841 (5th Cir. 2014).

We have reviewed counsel's brief and the relevant portions of the record reflected therein, as well as Hamilton'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, and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.