

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

April 21, 2021

Lyle W. Cayce
Clerk

No. 20-40572
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

IRVING EFRAIN TAPIA-TOLENTINO,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:20-CR-780-1

Before SMITH, STEWART, and HIGGINSON, *Circuit Judges.*

PER CURIAM:*

The Federal Public Defender (FPD) appointed to represent Irving Efrain Tapia-Tolentino 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). Tapia-Tolentino has not filed a

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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response. The record is not sufficiently developed to allow us to make a fair evaluation of the claim of ineffective assistance of counsel raised by the FPD on Tapia-Tolentino's behalf; we therefore decline to consider the claim without prejudice to Tapia-Tolentino's ability to raise it on 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. 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.*