

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

September 23, 2022

Lyle W. Cayce  
Clerk

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No. 22-10200  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

CARLOS ALBERTO AYALA,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 6:21-CR-47-1

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Before WIENER, ELROD, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:\*

The attorney appointed to represent Defendant-Appellant Carlos Alberto Ayala 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). Ayala has filed a response, a request

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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for appointment of substitute counsel, and a motion for leave to file an additional response, which is incorporated in the motion for leave. His motion for leave to file an additional response is GRANTED.

We have reviewed counsel's brief and the relevant portions of the record reflected therein, as well as Ayala's responses. The record is not sufficiently developed to allow us to make a fair evaluation of Ayala's claims of ineffective assistance of counsel; we therefore decline to consider the claims, but without prejudice to collateral review. *See United States v. Isgar*, 739 F.3d 829, 841 (5th Cir. 2014). We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review. Counsel's motion for leave to withdraw is therefore GRANTED, counsel is excused from further responsibilities herein, and Ayala's appeal is DISMISSED. *See 5TH CIR. R. 42.2*. Ayala's motion for appointment of new counsel is DENIED as untimely. *United States v. Wagner*, 158 F.3d 901, 902-03 (5th Cir. 1998).