

United States Court of Appeals
for the Fifth Circuit

No. 22-10589
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 16, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

SOFIO NIETO, JR.,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:21-CR-425-1

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

PER CURIAM:*

The attorney appointed to represent Sofio Nieto, Jr., 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). Nieto has not filed a response but has moved for appointment of new counsel.

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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That motion is DENIED as untimely. *See United States v. Wagner*, 158 F.3d 901, 902-03 (5th Cir. 1998).

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, 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 record, however, reflects a clerical error in the written judgment. The written judgment states that Nieto is to serve a three-year term of supervised release. Instead, at sentencing, the district court orally pronounced that Nieto would serve a one-year term of supervised release. Accordingly, we REMAND for the entry of a corrected written judgment in accordance with Federal Rule of Criminal Procedure 36. *See FED. R. CRIM. P. 36; see also United States v. Illies*, 805 F.3d 607, 610 (5th Cir. 2015).