

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 27, 2022

Lyle W. Cayce
Clerk

No. 22-40093
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JAIRO ESNID PINA-CARRILLO,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:21-CR-1682-1

Before SMITH, DENNIS, and SOUTHWICK, *Circuit Judges.*

PER CURIAM:*

The Federal Public Defender appointed to represent Jairo Esnid Pina-Carrillo 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). Pina-Carrillo has not filed a response. We have

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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reviewed counsel's brief and the relevant portions of the record reflected therein.

Because counsel's *Anders* brief pretermits discussion of whether there are nonfrivolous grounds to challenge Pina-Carrillo's guilty plea and conviction, we must determine whether "the record reflects that the defendant has chosen not to challenge the plea." *United States v. Polanco-Ozorto*, 772 F.3d 1053, 1054 (5th Cir. 2014) (quoting *United States v. Garcia*, 483 F.3d 289, 289 (5th Cir. 2007)). Our Court has held that "a written statement by the defendant that after receiving the advice of counsel he does not wish to challenge his guilty plea" will suffice. *Id.* (quoting *Garcia*, 483 F.3d at 291). Here, Pina-Carrillo signed a written statement declaring that he understands that he has the right to appeal both his conviction and sentence, the right to have the assistance of appointed counsel on appeal, and the right not to pay for the appeal. The statement further declares that he discussed his appeal rights with his attorney and that he wishes to appeal only his sentence. This suffices to show that Pina-Carrillo validly waived his right to appeal his conviction. *See id.* at 1055.

With respect to Pina-Carrillo's sentence, 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.