

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 25, 2022

Lyle W. Cayce
Clerk

No. 22-40200
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

HUMBERTO CABRERA,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:21-CR-747-2

Before JOLLY, JONES, and HO, *Circuit Judges.*

PER CURIAM:*

The Federal Public Defender appointed to represent Humberto Cabrera 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). Cabrera's motion for leave to file an out-of-time response is GRANTED, and we have considered his response. The record

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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is not sufficiently developed to allow us to make a fair evaluation of Cabrera's claims of ineffective assistance of counsel; we therefore decline to consider the claims 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 Cabrera's response. 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. Cabrera's motion for the appointment of new counsel is DENIED as untimely. *See United States v. Wagner*, 158 F.3d 901, 902-03 (5th Cir. 1998). The motion to seal the pro se response and the related motion is GRANTED.