

# United States Court of Appeals for the Fifth Circuit

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No. 24-51005  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

January 20, 2026

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

MARVIN JOSUE HERNANDEZ-LOPEZ,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 2:23-CR-452-1

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Before HIGGINBOTHAM, ENGELHARDT, and RAMIREZ, *Circuit Judges.*

PER CURIAM:\*

The Federal Public Defender appointed to represent Marvin Josue Hernandez-Lopez 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). Hernandez-Lopez has not filed a

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

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

It is dispositive that the Government has declined to waive the untimeliness of the appeal. *See United States v. Pesina-Rodriguez*, 825 F.3d 787, 788 (5th Cir. 2016). Accordingly, without prejudice to a future 28 U.S.C. § 2255 motion that Hernandez-Lopez may file, 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.