

# United States Court of Appeals for the Fifth Circuit

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No. 25-10296  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

July 8, 2025

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

HERNAN OSCAR GUTIERREZ,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:22-CR-77-1

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Before RICHMAN, SOUTHWICK, and WILLETT, *Circuit Judges*.

PER CURIAM:\*

The attorney appointed to represent Hernan Oscar Gutierrez 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). Gutierrez has filed a response. The record is not sufficiently developed to allow us to make a fair evaluation of Gutierrez's claims of

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

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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 Gutierrez's response. We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review. Accordingly, the 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. Gutierrez'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).