

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

February 12, 2010

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No. 08-40194  
Conference Calendar

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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

GILBERTO GONZALES-CORNEJO,

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 5:07-CR-1505-ALL

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Before GARZA, DENNIS, and ELROD, Circuit Judges.

PER CURIAM:\*

The Federal Public Defender appointed to represent Gilberto Gonzales-Cornejo has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Gonzales-Cornejo has filed a response and has moved for this court to appoint substitute counsel. The record is insufficiently developed to allow consideration at this time of Gonzales-Cornejo's claims of ineffective assistance of counsel; such claims generally "cannot be resolved on direct appeal when [they have] not been raised before the district

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court since no opportunity existed to develop the record on the merits of the allegations.” *United States v. Cantwell*, 470 F.3d 1087, 1091 (5th Cir. 2006) (internal quotation marks and citation omitted). Our independent review of the record, counsel’s brief, and Gonzales-Cornejo’s response discloses no nonfrivolous issue for appeal. Accordingly, the motion for leave to withdraw is GRANTED, Gonzales-Cornejo’s motion for appointment of substitute counsel is DENIED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.