

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

United States Court of Appeals
Fifth Circuit

FILED

August 17, 2010

Lyle W. Cayce
Clerk

No. 05-40774

Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

GREGORY D LEWIS,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 5:04-CR-19-1

Before DAVIS, SMITH, and WIENER, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent Gregory D. Lewis has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Lewis has filed a response. To the extent that Lewis has raised a claim of ineffective assistance of counsel, the record is insufficiently developed to allow consideration at this time of his claim; such claims generally “cannot be resolved on direct appeal when [they have] not been raised before the district court since no opportunity existed to develop the record

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 05-40774

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 Lewis’s response discloses no nonfrivolous issue for appeal. 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. Lewis’s motion to substitute counsel is DENIED.