

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

United States Court of Appeals
Fifth Circuit

FILED

April 30, 2009

No. 08-10633
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

ADRIAN ESTABAN SANCHEZ HEREDIA

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:02-CR-396-1

Before JONES, Chief Judge, and JOLLY and ELROD, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Adrian Estaban Sanchez Heredia has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Sanchez Heredia has filed a response. The record is insufficiently developed to allow consideration at this time of Sanchez Heredia's claim of ineffective assistance of counsel; 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 on the merits of

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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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 Sanchez Heredia’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. Sanchez Heredia’s motion for appointment of counsel is DENIED.