

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

United States Court of Appeals
Fifth Circuit

FILED

October 26, 2010

No. 09-41214
Conference Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE ZAVALA-MOLINA, also known as Jose Angel Zavala-Molina, also known
as Jose Zabala, also known as Jose Zabala-Molina,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:09-CR-734-1

Before SMITH, DENNIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent Jose Zavala-Molina has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Zavala-Molina has filed a response. To the extent Zavala-Molina is raising a claim of ineffective assistance of counsel, the record is insufficiently developed at this time to allow for its consideration; such claims generally “cannot be resolved on direct appeal when [they have] not been

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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