

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

United States Court of Appeals  
Fifth Circuit

**FILED**

February 24, 2020

Lyle W. Cayce  
Clerk

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No. 19-40223

Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DAMIEN EARL KIMBLE,

Defendant-Appellant

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 1:18-CR-142-3

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Before STEWART, DENNIS, and HO, Circuit Judges.

PER CURIAM:\*

The attorney appointed to represent Damien Earl Kimble 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). Kimble has filed a response and an incorporated motion to remand the case to the district court for resentencing. The record is not sufficiently developed to allow us to make a fair evaluation of Kimble's claims of ineffective assistance

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 19-40223

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 Kimble's response. We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review. Accordingly, the incorporated motion to remand is DENIED, 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.