

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-11383

Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

REGINALD D. FINLEY,

Defendant-Appellant.

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Appeals from the United States District Court  
For the Northern District of Texas  
(3:00-CR-4-1-X)

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December 19, 2001

Before HIGGINBOTHAM, WIENER, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

Reginald Finley pled guilty pursuant to a written agreement to being a felon in possession of a firearm and to failing to appear, in violation of 18 U.S.C. §§922(g)(1) and 3146(a)(1). He argues that he was denied effective assistance of counsel where his attorney advised him to enter into a plea agreement from which he received no benefit and in which he waived his right to appeal. We find that Finley has failed to demonstrate that counsel was

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

ineffective.

Finley argues that counsel was ineffective for failing to file a pretrial motion to dismiss the indictment on the ground that § 992 (g)(1) is unconstitutional. This argument is foreclosed by our precedent.<sup>1</sup>

Finley also claims that the government failed to present sufficient facts to prove that he had been convicted previously of an offense punishable by a term exceeding one year, which is an element of the offense. Because Finley did not raise this issue below, we review only for plain error.<sup>2</sup> We hold that there was no clear error that affected Finley's substantial rights.<sup>3</sup>

AFFIRMED.

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<sup>1</sup> *United States v. Rawls*, 85 F.3d 240, 242-43 (5th Cir. 1996).

<sup>2</sup> *United States v. Williams*, 264 F.3d 561, 574 (5th Cir. 2001).

<sup>3</sup> *Id.*