

December 12, 2002

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 01-40894
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ARTURO LUNA, also known as Art Luna,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. B-00-CR-496-3

December 12, 2002

Before JOLLY, JONES, and WIENER, Circuit Judges.

PER CURIAM:*

Arturo Luna appeals his conviction following a guilty plea for conspiracy to possess more than 100 kilograms of marijuana with intent to distribute. 21 U.S.C. §§ 841(a)(1), (b)(1)(B), 846. Luna argues that his retained trial counsel rendered ineffective assistance in purportedly failing to review the presentence report (PSR) with him and in failing to file objections to the PSR, despite having obtained an extension 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

time in which to file objections. He contends that counsel should have objected to the three-level increase in his base offense level for his aggravating role in the offense. See U.S.S.G. § 3B1.1(b). This court declines to review a claim of ineffective assistance of counsel on direct appeal where, as here, the record is not sufficiently developed to allow the court to evaluate fairly the merits of the claim. See United States v. Gibson, 55 F.3d 173, 179 (5th Cir. 1995); United States v. Higdon, 832 F.2d 312, 314 (5th Cir. 1987). The judgment of the district court is AFFIRMED.