

August 19, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 02-41312  
Conference Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MICHAEL D. CORNELL,

Defendant-Appellant.

-----  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. C-02-CR-101-1  
-----

Before JONES, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Michael D. Cornell appeals his conviction of possession with intent to distribute three kilograms of cocaine. Cornell argues that his trial counsel was ineffective because, in questioning the Government's agent, counsel opened the door to testimony that the court earlier had excluded and because counsel helped the Government's case by eliciting evidence of the plea negotiations between Cornell and the Government.

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The ineffectiveness claims raised in Cornell's appeal brief are different from the claims raised in his new-trial motion in the district court, and no evidentiary hearing has been held on his claims. Consequently, the record has not been developed adequately for this court to consider the ineffective-assistance claims raised on direct appeal. Cf. United States v. Haese, 162 F.3d 359, 363 (5th Cir. 1998). Cornell's appeal is DISMISSED without prejudice to Cornell's right to raise the instant claims in a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255.