

April 20, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-50655
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RUBEN ALONZO,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:03-CR-2227-ALL-KC

Before JONES, SMITH, and PRADO, Circuit Judges.

PER CURIAM:*

Ruben Alonzo appeals his guilty-plea conviction and sentence for importing marijuana into the United States, in violation of 21 U.S.C. §§ 952, 960. He argues that his counsel rendered constitutionally ineffective assistance by failing to investigate adequately his criminal history. Alonzo alleges that, before advising him to enter a plea agreement, counsel did not have an accurate idea of the applicable guideline range.

The trial court allowed Alonzo's initial attorney to withdraw and substituted new counsel prior to sentencing Alonzo.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Thereafter, Alonzo neither moved to withdraw his guilty plea nor raised the issue of ineffective assistance of counsel in the district court. We conclude that the record is insufficiently developed to allow consideration of this issue on direct appeal.

See United States v. Price, 95 F.3d 364, 369 (5th Cir. 1996);

United States v. Higdon, 832 F.2d 312, 314 (5th Cir. 1987).

Accordingly, without prejudice to Alonzo's right to file a motion pursuant to 28 U.S.C. § 2255, the judgment of the district court is AFFIRMED.