

April 11, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-50713
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROBERTO BALLONES, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:04-CR-230-1

Before JONES, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

Roberto Ballones, Jr., appeals his guilty-plea conviction and sentence for conspiracy to possess with intent to distribute more than five kilograms of cocaine. For the first time on appeal, Ballones argues that he received ineffective assistance of counsel that made his guilty plea involuntary and his sentence unreasonable.

Because Ballones did not raise his claims in the district court, there is no evidentiary record on these issues. Consequently, the record has not been developed sufficiently for

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

us to consider Ballones's ineffective assistance of counsel claims on direct appeal. See United States v. Kizzee, 150 F.3d 497, 502-03 (5th Cir. 1998). Accordingly, the judgment of the district court is affirmed without prejudice to Ballones's right to raise his ineffective assistance of counsel claims in a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. We express no view on the merits of such a motion.

AFFIRMED.