

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

May 9, 2012

Lyle W. Cayce
Clerk

No. 11-60380
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

BOBBY C. DOZIER,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 1:10-CR-107-1

Before BENAVIDES, STEWART, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Bobby C. Dozier pleaded guilty to possession of a computer hard drive containing images of child pornography, and the district court sentenced him to a below-guidelines 30-months in prison to be followed by five years of supervised release. On direct appeal, Dozier asserts, for the first time, that his trial attorney rendered ineffective assistance because he failed to comply with the court-imposed deadlines for preparing his expert witness for trial and, thus, failed to present a defense.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 11-60380

“[T]he general rule in this circuit is that a claim of ineffective assistance of counsel cannot be resolved on direct appeal when the claim has not been raised before the district court since no opportunity existed to develop the record on the merits of the allegations.” *United States v. Gulley*, 526 F.3d 809, 821 (5th Cir. 2008) (internal quotation marks and citation omitted). The alleged ineffectiveness of Dozier’s counsel cannot be resolved from the evidence contained in the record and, if warranted, would require consideration of matters outside the record. *See United States v. Navejar*, 963 F.2d 732, 735 (5th Cir. 1992).

Accordingly, we decline to address Dozier’s ineffective assistance of counsel claims, but without prejudice to his right to raise them in a 28 U.S.C. § 2255 proceeding. *See United States v. Higdon*, 832 F.2d 312, 314 (5th Cir. 1987). The judgment of the district court is **AFFIRMED**.