

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

No. 12-51191
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

December 5, 2013

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

LEOPOLDO VALENCIA-URREA,

Defendant - Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:10-CR-973-3

Before KING, BARKSDALE, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Leopoldo Valencia-Urrea appeals his guilty-plea convictions and sentences for conspiracy to commit wire fraud, wire fraud, and conspiracy to commit money laundering. He claims he was denied his Sixth Amendment right to the effective assistance of counsel (IAC). In particular, he maintains counsel, *inter alia*, encouraged him to sign a plea agreement that provided little or no benefit to him and failed to file a written response to the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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Government's sentencing memorandum, which sought an increased sentence based on his post-plea conduct.

Valencia did not raise his IAC claims in district court. “[T]he general rule in this circuit is that a claim for 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. Cantwell*, 470 F.3d 1087, 1091 (5th Cir. 2006) (alteration in original) (citation and internal quotation marks omitted). Because “we cannot fairly evaluate the [IAC] claim[s] from the record”, we decline to consider them, without prejudice to his right to raise them in a subsequent proceeding, such as pursuant to 28 U.S.C. § 2255. *United States v. Gulley*, 526 F.3d 809, 821 (5th Cir. 2008).

AFFIRMED.