

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

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No. 14-50038  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

January 5, 2015

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MARC SCHWARTZ,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 3:10-CR-2284-2

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Before DAVIS, CLEMENT and COSTA, Circuit Judges.

PER CURIAM:\*

Marc Schwartz appeals his conviction for conspiring to engage in racketeering for which he was sentenced to 96 months of imprisonment and three years of supervised release and ordered to pay \$6,819,723.87 in restitution. He contends that trial counsel was ineffective for filing deficient pretrial motions and a deficient sentencing memorandum and for failing to object to the district court's denial of the Government's motion for a downward

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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departure. Pretermittting the timeliness of Schwartz's notice of appeal, we decline to review these claims on direct appeal because the record is not sufficiently developed to determine whether trial counsel was ineffective. *See United States v. Isgar*, 739 F.3d 829, 841 (5th Cir.), *cert. denied*, 135 S. Ct. 123 (2014). This determination is without prejudice to Schwartz's ability to raise his claims in a 28 U.S.C. § 2255 proceeding.

The judgment of the district court is AFFIRMED.