

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-8553
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JERRY KENDRICKS,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. MO-92-CR-30-2

June 24, 1993

Before POLITZ, Chief Judge, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM:*

Several weeks after pleading guilty to conspiracy to possess with intent to distribute cocaine and shortly prior to sentencing, appellant, Jerry Kendrick, wrote a letter to the district court complaining that he had been pressured into accepting the Government's plea offer and that his counsel's assistance had been ineffective.

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

At sentencing Kendrick's denied that he wanted to withdraw his plea. Now, on appeal, he argues that a Rule 32(d) motion to withdraw a guilty plea was before the district court and was denied. Because the motion was not before the district court or ruled upon by the court, there is no issue to consider on appeal.

Additionally, Kendrick's argues that he received ineffective assistance of counsel. Under United States v. Higdon, 832 F.2d 312, 314 (5th Cir. 1987), cert. denied, 484 U.S. 1075 (1988), there is insufficient information available to consider this claim. The Court declines to consider the issue, without prejudice to Kendrick's right to raise it in a proper proceeding pursuant to 28 U.S.C. § 2255. See, e.g., United States v. Rinard, 956 F.2d 85, 87 & n.5 (5th Cir. 1992). Kendrick's conviction is AFFIRMED.