

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1046
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WILLIE JAMES CHASTAIN,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
(2:90-CR-0052(1))

(August 6, 1993)

Before POLITZ, Chief Judge, GARWOOD and SMITH, Circuit Judges.

PER CURIAM:*

Nearly two years after his guilty plea conviction of bank robbery, 18 U.S.C. § 2113(a), Willie James Chastain moved to dismiss his indictment and to compel disclosure of purportedly favorable evidence. The motions were denied. We affirm.

A defendant who pleads guilty waives all non-jurisdictional

*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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

defects arising prior to entry of the plea.¹ Failure to disclose exculpatory evidence is not a jurisdictional defect.² Nor is Chastain's allegation that the government obtained evidence from the State of Texas and the City of Amarillo without a "writ/warrant/request," notwithstanding his attempt to characterize it as such.³ Chastain contends that his lawyer was ineffective for failing to protest the improperly obtained evidence. Guilty pleas, however, bar complaints of ineffective assistance of counsel unless they relate to the voluntariness of the plea.⁴ Chastain does not claim that he would have insisted on going to trial but for his attorney's purportedly deficient performance.⁵ Accordingly, this complaint too is foreclosed.

AFFIRMED.

¹ **United States v. Bell**, 966 F.2d 914 (5th Cir. 1992).

² See **Campbell v. Marshall**, 769 F.2d 314 (6th Cir. 1985) (failure to disclose exculpatory evidence does not permit collateral relief from a conviction on a guilty plea), cert. denied, 475 U.S. 1048 (1986).

³ **United States v. Sepe**, 474 F.2d 784 (5th Cir.), aff'd on rehearing en banc, 486 F.2d 1044 (1973).

⁴ **Beasley v. McCotter**, 798 F.2d 116 (5th Cir. 1986), cert. denied, 479 U.S. 1039 (1987); **Smith v. Estelle**, 711 F.2d 677 (5th Cir. 1983), cert. denied, 466 U.S. 906 (1984).

⁵ See **Nelson v. Hargett**, 989 F.2d 847 (5th Cir. 1993).