

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1076
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MALIS DELANGO MARTIN,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:91-CR-91-Y
c/w4:91-CR-130Y
- - - - -
(October 28, 1993)

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

PER CURIAM:*

Malis Delango Martin appeals from a guilty-plea conviction for carrying a firearm during the assault of a federal officer and unlawful possession of a firearm by a convicted felon. He contends that the district court failed to make a more detailed inquiry into his competency to plead guilty.

Constitutional due process protects a person who is mentally incompetent from trial or a guilty plea conviction. See Pate v. Robinson, 383 U.S. 375, 378, 86 S.Ct. 836, 15 L.Ed.2d 815 (1966).

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

The competency standard for pleading guilty is the same as the competency standard for standing trial: whether the defendant has "sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding" and a "rational as well as factual understanding of the proceedings against him." Godinez v. Moran, ___ U.S. ___, 113 S.Ct. 2680, 61 USLW 4749 (U.S. Jun 24, 1993) (No. 92-725) (quoting Dusky v. United States, 362 U.S. 402, 80 S.Ct. 788, 4 L.Ed.2d 824 (1960)). If there is any doubt as to the defendant's mental state during the guilty plea hearing, the district court must conduct an inquiry as to competence. Pate v. Robinson, 383 U.S. at 385.

Although the determination of Martin's competence had previously been made, the district court questioned Martin concerning his mental and emotional health at the guilty plea hearing. Martin, as well as defense counsel, replied that he was of sound mind and that there was no reason to believe that he was not fully competent to plead guilty. There was no triggering factor in their responses to raise any doubt concerning Martin's rational ability to consult with his attorney and to understand the proceedings. Therefore, the district court was not required to probe further.

Martin's appeal presents no issue of arguable merit and is thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5th Cir. R. 42.2.