

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-1855  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellant,

versus

NORRIS TAYLOR JONES,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. CR3-87-134-H  
- - - - -  
(May 18, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Norris Jones argues that the district court erred by denying his motion to vacate sentence based on his claim of ineffective assistance of trial counsel, L.C. Taylor.

To establish an ineffective assistance of counsel claim Jones must show that counsel's performance was deficient and that the deficiency prejudiced his defense. Hill v. Lockhart, 474 U.S. 52, 56-58, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985); see Strickland v. Washington, 466 U.S. 668, 687, 104 S.Ct. 2052, 80

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

L.Ed.2d 674 (1984). In the context of a guilty plea, prejudice occurs if there is a reasonable probability that, but for counsel's error, Jones would not have pleaded guilty and would have insisted on going to trial. Hill, 474 U.S. at 58-59. This Court must give great deference to counsel's performance, and must strongly presume that counsel exercised reasonable judgment. Strickland, 466 U.S. at 690. In reviewing the denial of a § 2255 motion, this Court reviews the district court's factual findings for clear error. United States v. Gipson, 985 F.2d 212, 214 (5th Cir. 1993).

After the evidentiary hearing, the district court found that Taylor did not advise Jones of any parole eligibility. This finding is supported by the record and is not clearly erroneous. Jones failed to establish prejudice in reliance upon any incorrect advice.

Jones also alleges he was denied effective assistance of counsel because Taylor failed to call witnesses to testify at the motion to suppress hearing and failed to investigate his case to establish a possible trial defense, thus causing him to plead guilty. Where the alleged error of counsel is a failure to investigate, the determination whether the error prejudiced the defendant by causing him to plead guilty rather than go to trial will depend on the likelihood that discovery of the evidence would have led counsel to change his recommendation as to the plea. Hill, 474 U.S. at 59; Young v. Lynaugh, 821 F.2d 1133, 1140 (5th Cir.), cert. denied, 484 U.S. 986 (1987).

The district court found Taylor's testimony that he conducted pretrial interviews of all available witnesses to be credible. Taylor testified that he did not think the witnesses' testimony would be beneficial at the suppression hearing or credible over the arresting officers' testimony because they were not in the car at the time of arrest. Therefore, Jones failed to demonstrate how these witnesses' testimony would have affected the outcome of this case, or how any failure to investigate would have led Taylor to change his decision regarding any possible trial defense or recommendation as to the guilty plea. The district court did not err in denying the § 2255 motion.

AFFIRMED.