IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1922
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

STEVE RAY HICKMAN,

Defendant-Appellant.

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Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:93-CR-010-C-9

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(September 22, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:[*]

Steve Ray Hickman pleaded guilty to distributing cocaine base within 1,000 feet of a school, and to aiding and abetting.

At his sentencing hearing, Hickman made the following statement:

> I would like to see if I could have some help, because I never saw this attorney here since the pre-sentence deal at the jailhouse, and I have been trying to get in touch with him and see if I could get him to like file a few motions or ask him about working on some - - I got some stuff I got wrote down [sic] that I wanted him to check on, and I just haven't been able to get him to do nothing.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Hickman argues that his statements at the sentencing hearing were tantamount to a motion to withdraw his plea of guilty and that the district court abused its discretion by implicitly denying that motion. Other than the statements which Hickman now contends were "tantamount" to a motion to withdraw, Hickman made no argument in the district court regarding his guilty plea.

Under Fed. R. Crim. P. 52(b), this Court may correct forfeited errors only when the appellant shows the following factors: (1) there is an error, (2) that is clear or obvious, and (3) that affects his substantial rights. United States v. Rodriguez, 15 F.3d 408, 415-16 (5th Cir. 1994) (citing United States v. Olano, ___ U.S.___, 113 S. Ct. 1770, 1777-79, 123 L. Ed. 2d 508 (1993)). If these factors are established, the decision to correct the forfeited error is within the sound discretion of the Court, and the Court will not exercise that discretion unless the error seriously affects the fairness, integrity, or public reputation of judicial proceedings. Olano, 113 S. Ct. at 1778.

Rule 32 of the Federal Rules of Criminal Procedure provides, in pertinent part, that "[i]f a motion for withdrawal of a plea of guilty or nolo contendere is made before sentence is imposed, the court may permit withdrawal of the plea upon a showing by the defendant of any fair and just reason." Fed. R. Crim. P. 32(d) (West 1994). Even given their broadest possible interpretation, see United States v. Hurtado, 846 F.2d 995, 997 (5th Cir.), cert. denied, 488 U.S. 863 (1988), Hickman's statements at sentencing

did not demonstrate Hickman's professed desire to withdraw his guilty plea. Accordingly, the district court's failure to construe Hickman's statements as a motion under Rule 32(d) did not result in error, plain or otherwise. See Rodriguez, 15 F.3d at 414-16.

A claim of ineffective assistance of counsel generally cannot be addressed on direct appeal unless the claim has been presented to the district court; otherwise, there is no opportunity for the development of an adequate record on the merits of that serious allegation. United States v. Navejar, 963 F.2d 732, 735 (5th Cir. 1992). Although Hickman made vague assertions of ineffectiveness including a claim that counsel did not come to see him since "the pre-sentence deal," the record is devoid of substantial details regarding counsel's conduct. Accordingly, this Court will decline to address the merits of Hickman's ineffective-assistance claim on direct appeal. See United States v. Bounds, 943 F.2d 541, 544 (5th Cir. 1991).

Finally, Hickman asserts that the district court violated Fed. R. Crim. P. 32(a)(1)(A) by failing to determine that he and his counsel had read and discussed the presentence report. Rule 32(a)(1)(A) requires a district court to determine that the defendant and his counsel have had the opportunity to read and discuss the PSR; however, this Court does not require that a judge specifically ask a defendant whether he has read and discussed the report with counsel. United States v. Victoria, 877 F.2d 338, 340 (5th Cir. 1989). The district court may draw reasonable inferences from court documents, the defendant's

statements, and counsel's statements when determining whether a defendant has had the opportunity to read and discuss the PSR with counsel. Id. Because the district court could have reasonably inferred that Hickman and his counsel had reviewed the PSR, this argument is without merit. See id.

AFFIRMED.