

UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 93-2276
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

VERSUS

WILLIAM LAWRENCE HIGHT,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
(92-CV-986 (CR H 90 310 (1)))

(November 19, 1993)

Before DAVIS, JONES and DUHÉ, Circuit Judges.

PER CURIAM:¹

Appellant pled guilty to a bill of information charging conspiracy to possess with intent to distribute more than five kilograms of cocaine. He seeks relief under 28 U.S.C. § 2255 claiming that his counsel was ineffective for failure to move for dismissal of this charge. He contends that no others in the scheme were convicted as co-conspirators and that the evidence showed only that his activity involved undercover officers, therefore, there could be no conspiracy. We disagree and affirm.

We examine under the well known standards of Strickland v.

¹ 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Washington, 466 U.S. 668, 687 (1984), and Hill v. Lockhart, 474 U.S. 52, 58-59 (1985). Careful examination of the record shows that Appellant conspired with both Sturgess and Burnette when he met with undercover DEA agents to negotiate the drug sale, and with Burnette and Bonvillian who were with him at the time of his arrest, and were instructed by him to load the drugs. The testimony of co-defendant Burnette alone is more than adequate to establish a conspiracy. The fact that the co-conspirators were not convicted as such is of no moment. See United States v. Davila, 698 F.2d 715, 720 (5th Cir. 1983); United States v. Zuniga-Salinas, 952 F.2d 876, 878 (5th Cir. 1992) (en banc). Appellant has made no showing that his attorney's actions fell below an objective standard of reasonableness.

Hight also complains that the district court should have granted him an evidentiary hearing but he does not show what this hearing would reveal. We find that the district court could fairly resolve the ineffective assistance of counsel claim with the record before it and that no evidentiary hearing was necessary. See United States v. Smith, 915 F.2d 959, 964 (5th Cir. 1990).

In the district court, Appellant argued that his guilty plea was the result of improper advice of counsel and that the bill of information failed to charge a federal offense. He did not raise nor brief these issues in this Court until he filed his reply brief. We do not address issues raised for the first time in this Court in a reply brief. United States v. Prince, 868 F.2d 1379, 1386 (5th Cir.), cert. denied, 493 U.S. 932 (1989). Likewise, we do not review matters inadequately briefed. See Brinkmann v. Abner, 813 F.2d 744, 748 (5th Cir. 1987).

AFFIRMED.