

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7293
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GEOFFREY BERNARD BRADFORD,

Defendant-Appellant.

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Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA-G92-560 (CR-G91-02-01)

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(March 24, 1994)

Before KING, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:*

Geoffrey Bernard Bradford appeals the denial of his 28 U.S.C. § 2255 motion. To the extent Bradford challenges the evidence used to support his conviction, he waived his right to do so by his guilty plea. Barrientos v. United States, 668 F.2d 838, 842 (5th Cir. 1982). To the extent that he challenges the Government's jurisdictional authority to prosecute crimes without demonstrating U.S. ownership of the property where the crime was committed, the constitutionality of the Comprehensive Drug Abuse and Control Act of 1970 has been well-established as a proper and

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

valid exercise of congressional power under the Commerce Clause of the Constitution. See United States v. Lopez, 459 F.2d 949, 951-52 (5th Cir.), cert. denied, 409 U.S. 878 (1972).

Bradford argues that his counsel rendered constitutionally ineffective assistance. As Bradford has failed to allege any resulting prejudice from his counsel's performance, however, he has not sustained his burden of establishing that he received constitutionally ineffective assistance. See Hill v. Lockhart, 474 U.S. 52, 60, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985).

Bradford contends that the district court erroneously accepted his guilty plea because there was no factual basis to support the finding that he violated 18 U.S.C. § 924(c)(1) by possessing a firearm during a drug-trafficking offense, and because he did not understand the nature of the charges against him.

Bradford mistakenly assumes that, by placing the gun on the dresser, he did not "use" it during a drug-trafficking offense. This argument is foreclosed by our case law. See United States v. Ivy, 973 F.2d 1184, 1189 (5th Cir. 1992), cert. denied, 113 S.Ct. 1826 (1993). A review of the plea colloquy, therefore, reveals that Bradford understood the nature of the charges against him. The factual basis was also adequate.

Bradford's motion for appointment of counsel on appeal is DENIED. See Schwander v. Blackburn, 750 F.2d 494, 502 (5th Cir. 1985); see also Rule on the Fifth Circuit Plan under the Criminal Justice Act § 2.

AFFIRMED