

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40284
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WILLIAM J. LONG,

Defendant-Appellant.

Appeal from the United States District Court
For the Western District of Louisiana
(1:94-CV-348 (1:92-CR-10007))

(February 16, 1995)

Before POLITZ, Chief Judge, KING and STEWART, Circuit Judges.

PER CURIAM:*

William J. Long appeals the denial of his 28 U.S.C. § 2255 motion to vacate his conviction and sentence. Finding no error, we affirm.

Background

On February 13, 1989, Long directed his employer, the

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

Louisiana Research and Development Center, to issue him a check for \$926.83. The check was deposited in Long's account and used to pay for repairs to his personal vehicle. The \$926.83 was derived from funds disbursed to the State of Louisiana under the Job Training Partnership Act.¹ Long was indicted for this misappropriation and for other thefts of federal government property.² He pled guilty to the charge of theft of the \$926.83, reserving his right to appeal solely on the issue of the federal character of the funds. The remaining counts of the indictment were dismissed. Long was sentenced to 10 months imprisonment, three years supervised release, a fine of \$20,000, restitution of the amount embezzled, and the statutory assessment. On direct appeal we held that the funds retained their federal character and affirmed the conviction.³

In filing the instant motion Long alleges that his indictment was defective because it was based on an inapplicable state travel regulation. He further alleges that he received ineffective assistance of counsel because his court-appointed attorney did not raise and preserve this point of error. The district court denied the motion; Long timely appealed.

Analysis

Long maintains that the charge to which he pled guilty was premised upon his violation of an inapplicable state travel

¹29 U.S.C. § 1501, *et seq.*

²18 U.S.C. § 641.

³See **United States v. Long**, 996 F.2d 731 (5th Cir. 1993).

regulation. He further contends that if the applicable regulation had been applied, his conduct would not have been deemed criminal.

Dispositive of this appeal is the rule that a guilty plea waives all non-jurisdictional defects in the proceedings,⁴ including any ineffective assistance of counsel claim not involving the voluntariness of the guilty plea.⁵ Long does not contend that his attorney's alleged failure affected the voluntariness of his plea. His ineffective assistance claim, therefore, must be deemed waived.

The only jurisdictional defect that conceivably might be advanced is the suggestion that the indictment, by relying on an allegedly inapplicable state travel regulation, failed to charge an offense that invoked the criminal jurisdiction of the court. Any such contention, however, presupposes that the indictment in fact relied upon the violation of an inapplicable state travel regulation. Long's indictment does not refer to any state travel regulation. Long simply was charged and convicted of the theft of \$926.83 in federal funds. The argument about state travel regulations is inapposite and without merit, as is his complaint of ineffective assistance of counsel.

The judgment of the district court is AFFIRMED.

⁴**United States v. Bell**, 966 F.2d 914 (5th Cir. 1992).

⁵**Smith v. Estelle**, 711 F.2d 677 (5th Cir. 1983).