

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-40413  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KEITH EDWARD SCOTT,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Texas  
(4:93-CR-62-(2))

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(January 12, 1995)

Before JONES, BARKSDALE and BENAVIDES, Circuit Judges.

PER CURIAM:\*

On the opening day of his and a co-defendant's trial for conspiracy to possess with intent to distribute a half kilo of cocaine and for a firearms offense, appellant Scott pled guilty. The case proceeded as to co-defendant Bills, who attempted to call Scott as a witness a day or two later. Scott elected not to testify, but he tried to change his plea to not guilty at that

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

time. The court denied the motion. Scott now appeals his conviction, arguing that his attorney coerced him to plead guilty by telling him that his entrapment defense had no chance of success and that the district court erred in not permitting him to withdraw the guilty plea. Finding no error, we affirm.

Scott's initial premise, that his guilty plea was involuntary, was totally contradicted by the plea colloquy conducted by the court on January 11. At that hearing, Scott was carefully apprised of all the considerations relevant to entering a guilty plea, and he repeatedly acknowledged his involvement in the offense. He also expressed satisfaction with his retained counsel's advice.

But even if, notwithstanding the record of the plea hearing, Scott felt he could make an entrapment defense, his attorney's advice to the contrary was certainly not constitutionally ineffective. Scott's retained counsel filed a lengthy affidavit responding to Scott's charges against him and thoroughly explained his tactical decisions and advice to Scott and Scott's family. From the facts alone, it is virtually impossible that a jury would have accepted an entrapment defense. Scott and his co-defendant had arranged to purchase nearly one-half kilo of cocaine in what turned out to be a reverse-sting operation. They had brought the purchase money to a motel room, sampled the cocaine by placing it on their gums, and were about to receive the product when arrested. Scott carried a bag containing a pistol into the motel room with him. At the time of the deal, he had no visible

means of support. As to co-defendant Bills, they rejected the entrapment defense.

Scott vaguely asserts that his retained counsel failed properly to investigate the case or to procure certain defense witnesses. Because he does not specify what the investigation or the witnesses would have done to help him, those allegations do not establish deficient representation. United States v. Green, 882 F.2d 999, 1003 (5th Cir. 1989); McCoy v. Cabana, 794 F.2d 177, 183 (5th Cir. 1986).

As his second principal point of error, Scott argues that the district court abused its discretion by not allowing him to withdraw his guilty plea. The court's written statement of reasons applies the Carr factors, United States v. Carr, 740 F.2d 339, 343-44 (5th Cir. 1984), cert. denied, 471 U.S. 1004 (1985). We need not rehash each one of those factors. The district court did not abuse his discretion by concluding that Scott's motion did not meet the standards for withdrawal of his guilty plea.

The judgment of conviction is AFFIRMED.