

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 95-31064
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

VERSUS

HAROLD RAY WISDOM,

Defendant-Appellant.

Appeal from the United States District Court
For the Western District of Louisiana
(CR-95-50012)

May 14, 1996

Before HIGGINBOTHAM, DUHÉ, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:¹

Harold Ray Wisdom argues that his trial counsel was ineffective for failing to respond to the Government's request for notice of his alibi witnesses; by failing to call alibi witnesses at trial, and for failing to request additional jury instructions.

Wisdom's ineffective-assistance-of-counsel claim based on counsel's failures regarding alibi witnesses was not factually

¹Pursuant to Local Rule 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

developed in the district court. We therefore decline to address the merits of the claim on direct appeal, but we do so without prejudice to Wisdom's right to raise the issue in a 28 U.S.C. § 2255 motion proceeding. See United States v. Andrews, 22 F.3d 1328, 1345 (5th Cir.), cert. denied, 115 S. Ct. 346 (1994).

With respect to Wisdom's argument that counsel was ineffective in failing to request additional jury instructions, we have reviewed the record, including the trial transcript and the jury instructions given by the district court to the jury, and have determined that Wisdom has failed to demonstrate that his counsel was ineffective in failing to request the additional instructions proposed by Wisdom on appeal. See Strickland v. Washington, 466 U.S. 668, 687 (1984).

AFFIRMED.