

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-31109
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

versus

RONIE D. DURALL,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 95-CA-2819
- - - - -

April 18, 1996

Before DUHÉ, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:*

Ronie D. Durall appeals from the district court's denial of his motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. Durall argues that he was rendered ineffective assistance of counsel because his counsel failed to object at the time of sentencing to the Presentence Report, the district court erred in applying a two-point enhancement under U.S.S.G. § 2K2.1(b)(1)(B) and a two-point enhancement under

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

§ 2K2.1(b)(4), and the district court erred in failing to conduct an evidentiary hearing on his § 2255 motion.

The district court did not err in applying §§ 2K2.1(b)(1)(B) and (b)(4); therefore, Durall's counsel was not ineffective for failing to object. See *Strickland v. Washington*, 466 U.S. 668, 697 (1984). Durall's challenge to the district court's application of the Guidelines is not cognizable in § 2255 because a district court's technical application of the Guidelines does not give rise to a constitutional issue. *United States v. Vaughn*, 955 F.2d 367, 368 (5th Cir. 1992). The district court did not err in refusing to conduct an evidentiary hearing, because the record is sufficient for determination of Durall's contentions. *United States v. Drummond*, 910 F.2d 284, 285 (5th Cir. 1990), *cert. denied*, 498 U.S. 1104 (1991).

AFFIRMED.