

**UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 95-60173
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EARNEST CONROD, JR.,

Defendant-Appellant.

Appeal from the United States District Court
For the Northern District of Mississippi
(CR-90-156-D)

March 5, 1996

Before POLITZ, Chief Judge, DAVIS and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Earnest Conrod, Jr. appeals the district court's denial of his motion under 28 U.S.C. § 2255 to vacate, set aside, or correct his federal sentence, contending that his counsel did not provide effective assistance because of an ongoing feud with the Assistant United States Attorney. This issue was not raised in the trial court and Conrod has not shown the requisite plain error.¹

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

¹See **Highlands Ins.. Co. v. National Union Fire Ins.. Co.**, 27 F.3d 1027 (5th Cir. 1994) (applying in a civil case, plain error analysis of **United States v. Olano**, 113 S.Ct. 1770

Conrod also contends that his counsel was ineffective for failing to call alibi witnesses. This claim fails because Conrod has not “overcome the presumption that, under the circumstances, the challenged action ‘might be considered sound trial strategy.’”²

AFFIRMED.

(1993)), cert. denied, 115 S.Ct. 903 (1995).

²**Strickland v. Washington**, 466 U.S. 668, 689 (1984).