

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 96-10008  
(Summary Calendar)

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SON NGO HUYNH,

Defendant-Appellant.

- - - - -  
Appeal from the United States District Court  
for the Northern District of Texas  
(USDC No. 3:95-CR-225-T)  
- - - - -

August 26, 1996

Before HIGGINBOTHAM, WIENER and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Son Ngo Huynh appeals from the sentence imposed by the district court following his guilty-plea conviction for conspiracy to utter and possess counterfeit securities. Huynh argues that the district court erred by increasing his offense level by two pursuant to U.S.S.G. § 3B1.1(c) for his role in the offense and, in the alternative, that he received ineffective assistance of counsel because his attorney failed to notice and understand the

---

\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

significance of an error in the factual resume indicating that Huynh had recruited three other participants. In his plea agreement, however, Huynh waived his right to appeal his sentence. See United States v. Portillo, 18 F.3d 290, 293 (5th Cir.), cert. denied, 115 S. Ct. 244 (1994). Further, "[t]he general rule in this circuit is that a claim of ineffective assistance of counsel cannot be resolved on direct appeal when the claim has not been raised before the district court since no opportunity existed to develop the record on the merits of the allegations." United States v. Higdon, 832 F.2d 312, 313-14 (5th Cir. 1987), cert. denied, 484 U.S. 1075 (1988). Because the record was not fully developed on this issue, the court declines to address the issue on direct appeal. Accordingly, the judgment of the district court is affirmed.

AFFIRMED.