

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-11326
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARK LINNEAR HAYS,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:95-CR-141-D
- - - - -

April 16, 1999

Before JOLLY, SMITH, and WIENER, Circuit Judges.

PER CURIAM:*

Mark Linnear Hays appeals his convictions and sentences for conspiracy, obstructing commerce by robbery, using and carrying a firearm during and in relation to a crime of violence, and possession of a firearm by a felon. We GRANT Hays' motion to file his reply brief in its present form. Hays' motions for reimbursement of costs, return of property, and supplementation of the record are DENIED.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Hays argues that the Hobbs Act, 18 U.S.C. § 1951(a), is unconstitutional as applied to his offense; that Counts 1 and 2 of the indictment are defective; that identification evidence was tainted by an impermissibly suggestive photographic array; that evidence seized from a hotel room and Hays' truck should have been suppressed; that the Government presented perjured testimony; that the district court admitted extraneous prejudicial evidence; that a jury instruction was plain error; that the jury was tainted by exposure to midtrial publicity; that his sentence should not have been enhanced pursuant to 18 U.S.C. § 3559(c); and that trial counsel was ineffective for "threatening" Hays to accept a plea bargain, disagreeing with Hays over defense strategy, moving for appointment of cocounsel, failing to call witnesses, failing to request a Jackson v. Denno** hearing with regard to the testimony of Hays' accomplice, inadequately cross-examining the Government's expert witnesses and failing to offer expert testimony on Hays' behalf, failing to offer Hays' medical records into evidence, and stipulating that Hays had a prior conviction.

We have reviewed the record and the briefs of the parties and find no error. Consequently, we AFFIRM.

AFFIRMED; MOTION TO FILE REPLY BRIEF IN PRESENT FORM GRANTED; MOTIONS FOR REIMBURSEMENT OF COSTS, RETURN OF PROPERTY, AND TO SUPPLEMENT THE RECORD DENIED.

** 378 U.S. 368, 395-96 (1964).