

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-30339  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MICHAEL VAQUERO,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Middle District of Louisiana  
USDC No. 95-CV-2018 B M2  
- - - - -

April 4, 1997

Before DAVIS, EMILIO M. GARZA and STEWART, Circuit Judges.

PER CURIAM:\*

Federal prisoner Michael Vaquero appeals the district court's denial of his motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. He argues that trial counsel Scott Iles rendered ineffective assistance at trial by:

- 1) failing to adequately consult with Vaquero regarding plea offer;
- 2) failing to file any pretrial motions;
- 3) failing to subpoena codefendant Jesus Blanco to testify for Vaquero;

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

4) failing to request that the district court sever Vaquero from his codefendants; 5) failing to object to the Government's efforts to introduce evidence of codefendants Herman Mouton's and Clarence Taylor's prior acts under Fed. R. Evid. 404(b) or file a limiting instruction; and 6) failing to pursue the defense of "outrageous governmental misconduct." Our review of the record reveals no error. Accordingly, we affirm for essentially the same reasons given by the district court. See United States v. Vaquero, No. 95-CV-2018 B M2 (M.D. La. March 6, 1996).

Vaquero also argues that the district court should have granted his request for an evidentiary hearing. As the record is sufficient for review of Vaquero's claims, the district court did not err by refusing to hold an evidentiary hearing. See United States v. Smith, 915 F.2d 959, 964 (5th Cir. 1990).

To the extent that a certificate of appealability (COA) is required, we construe Vaquero's notice of appeal as an application for COA and DENY the motion.

AFFIRMED.