

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-31044
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BILLY C. CALLAWAY,
also known as Chris Callaway,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 96-CR-93-F
- - - - -

August 15, 1997

Before KING, HIGGINBOTHAM, and DUHÉ, Circuit Judges.

PER CURIAM:*

Billy C. Callaway appeals his conviction after pleading guilty to the use of a facility in interstate commerce to facilitate murders-for-hire. Callaway contends that his guilty plea was involuntary because defense counsel rendered ineffective assistance in failing to advise him adequately about the defense of "manufactured federal jurisdiction."

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

We resolve such an issue on direct appeal only when the record allows us to evaluate fairly its merits. United States v. Higdon, 832 F.2d 312, 313 (5th Cir. 1987). In the instant case, the record shows that Callaway would not have qualified for the asserted defense. See United States v. Clark, 62 F.3d 110, 113-14 (5th Cir. 1995). Accordingly, counsel was not ineffective for not advising Callaway about that defense. See Hill v. Lockhart, 474 U.S. 52, 56-57 (1985).

AFFIRMED.