

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-10539
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JAMES DAVID DANIEL,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:96-CR-388-H-2
- - - - -

April 10, 1998

Before JOLLY, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:*

James David Daniel pleaded guilty to possessing heroin in a federal prison. 18 U.S.C. § 1791(a)(2). Daniel appeals the 38-month sentence he received as a result of his plea, arguing: (1) that defense counsel was ineffective in advising him to agree to waive his right to raise a claim of ineffective assistance**

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

** The record reveals that Daniel waived his right to challenge the technical application of the sentencing guidelines in a 28 U.S.C. § 2255 proceeding; he did not waive his right to raise an ineffectiveness challenge in a § 2255 motion.

in a 28 U.S.C. § 2255 proceeding, and (2) that defense counsel was ineffective at sentencing. We have reviewed the briefs of the parties and the record, and we find no reversible error.

AFFIRMED.