

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-20843
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOHN LOCKETT,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-97-CR-13-1
- - - - -

August 18, 1998

Before KING, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:*

John Lockett appeals his convictions for conspiracy to possess with intent to deliver cocaine and two counts of aiding and abetting with intent to distribute cocaine. He contends solely that his trial counsel was ineffective for failing to object pursuant to Fed. R. Evid. 404(b) to certain testimony regarding Lockett's involvement with selling drugs.

Lockett's ineffective assistance claim was not raised before the district court, and the record is thus inadequate for this court to assess the merits of his claim on direct appeal.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Accordingly, we decline to address the merits of Lockett's ineffective assistance claim but do so without prejudice to his right to raise the issue in a proper proceeding pursuant to 28 U.S.C. § 2255. United States v. DelaGarza-Villarreal, 141 F.3d 133, 140-41 (5th Cir. 1998). Lockett's appeal is therefore without merit. Accordingly, it is DISMISSED. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2.

APPEAL DISMISSED.