

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40687
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HERBERT LEE SMITH, III,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. G-98-CV-164
USDC No. G-95-CR-11-1

June 14, 2000

Before JOLLY, DAVIS, and STEWART, Circuit Judges.

PER CURIAM:*

Herbert Lee Smith, III, federal prisoner #46227-079, appeals from the district court's denial of his motion to vacate, correct, or set aside his sentence under 28 U.S.C. § 2255. Smith argues that the Government failed to prove by a preponderance of the evidence that the offense involved crack cocaine as opposed to some other form of cocaine base and that his counsel was ineffective for failing to raise this objection at sentencing.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 have reviewed the record, the briefs of the parties, and the applicable law, and we find no reversible error. Smith failed to present, either in the district court or in this court, any specific, verified proof that the drug in question was some form of cocaine base other than crack cocaine. Accordingly, he cannot show that he has been prejudiced by his attorney's failure to raise this issue. See Strickland v. Washington, 466 U.S. 668, 687 (1984); Spriggs v. Collins, 993 F.2d 85, 88 (5th Cir. 1993).

Although Smith also briefs other issues, our review is limited to the sole issue specified in the certificate of appealability granted by the district court. See Lackey v. Johnson, 116 F.3d 149, 151-52 (5th Cir. 1997).

The judgment of the district court is AFFIRMED.