

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

June 22, 2011

Lyle W. Cayce
Clerk

No. 10-50705
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ERIC DANIEL PINON,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:10-CR-57-10

Before DAVIS, SMITH and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Eric Daniel Pinon challenges his 97-month sentence for aiding and abetting possession with intent to deliver between 100 and 1000 kilograms of marijuana. He asserts that his trial counsel was ineffective for failing during sentencing to re-urge his written objection to the presentence report's recommendation that Pinon be denied a downward adjustment for acceptance of responsibility.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 10-50705

Claims of ineffective assistance of counsel generally “cannot be resolved on direct appeal when [they have] not been raised before the district court since no opportunity existed to develop the record on the merits of the allegations.” *United States v. Cantwell*, 470 F.3d 1087, 1091 (5th Cir. 2006). Because the record before us is not sufficiently developed, we decline to address the issue on direct appeal. *See id.*

Additionally, Pinon asserts that the district court erred under Rule 32 of the Federal Rules of Criminal Procedure by failing to rule on his written objection. We find no plain error, as the court adopted the presentence report. *See United States v. Carreon*, 11 F.3d 1225, 1231 (5th Cir. 1994).

AFFIRMED.