

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

August 2, 2022

Lyle W. Cayce  
Clerk

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No. 21-20563  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

CARLOS DOMINGUEZ-TORRES,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:18-CR-721-5

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Before WIENER, ELROD, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:\*

Carlos Dominguez-Torres pleaded guilty to conspiracy to possess with intent to distribute methamphetamine and was sentenced to 135 months of imprisonment. On appeal, he contends that he received ineffective assistance of counsel when his initial attorney failed to properly advise him

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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regarding relevant conduct and how it would affect the calculation of his sentencing guidelines.

We will consider an ineffective-assistance claim on direct appeal “only in rare cases in which the record allows a reviewing court to fairly evaluate the merits of the claim.” *United States v. Isgar*, 739 F.3d 829, 841 (5th Cir. 2014) (internal quotation marks and citation omitted). While Dominguez-Torres filed a motion for a new trial and made statements at sentencing describing counsel’s alleged deficient performance, the record lacks detail regarding the advice counsel gave Dominguez-Torres about the language in the plea agreement regarding the consideration of relevant conduct. We therefore decline to consider this claim without prejudice to Dominguez-Torres’s right to raise it in a 28 U.S.C. § 2255 motion. *See United States v. Kelly*, 915 F.3d 344, 352 (5th Cir. 2019); *see also Isgar*, 739 F.3d at 841, 843 (affirming where the ineffective assistance claim was not reached).

AFFIRMED.