

United States Court of Appeals for the Fifth Circuit

No. 23-60306
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 9, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

LAKEITH M. FAULKNER,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 3:22-CR-141-1

Before WILLETT, DUNCAN, and RAMIREZ, *Circuit Judges*.

PER CURIAM:*

Lakeith M. Faulkner appeals his guilty plea conviction and 62-month sentence for conspiracy to commit wire fraud. He argues that his counsel in the district court provided ineffective assistance prior to the guilty plea hearing and sentencing by failing to adequately investigate loss and restitution. He further asserts that his counsel failed to: request a downward

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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departure based on his diminished capacity, raise a certain challenge to the gross receipts sentencing enhancement, and provide evidence in support of the abuse of trust enhancement.

Although Faulkner made allegations of ineffective assistance of counsel in a post-sentencing motion, the district court neither held a hearing nor issued a ruling on these issues. As a result, the record is not sufficiently developed to enable this court to “fairly evaluate” the merits of Faulkner’s ineffective assistance claim on direct appeal. *United States v. Jones*, 969 F.3d 192, 200 (5th Cir. 2020); *see United States v. Aguilar*, 503 F.3d 431, 436 (5th Cir. 2007). We therefore decline to consider Faulkner’s ineffective assistance claim at this time without prejudice to Faulkner’s right to raise that claim in a proceeding under 28 U.S.C. § 2255. *Jones*, 969 F.3d at 200.

AFFIRMED.