

November 13, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-50195
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WILLIAM DEFOREST GLOVER,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. A-02-CV-590-JN and
A-00-CR-290-ALL-JN

Before JOLLY, SMITH, and WIENER, Circuit Judges.

PER CURIAM:*

This court granted William DeForest Glover, federal prisoner # 15132-180, a certificate of appealability ("COA") to appeal the denial of his 28 U.S.C. § 2255 motion, wherein he challenged his 92-month sentence for being a felon in possession of a firearm. See United States v. Glover, No. 03-50195 (5th Cir. Jul. 9, 2003) (unpublished). The COA specified the issue on appeal as whether

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Glover's counsel objected to the application of U.S.S.G. § 2K2.1(b)(4) in a manner that rendered his assistance ineffective. Id. at 3. As it appeared that the district court did not address the merits of this issue below, the parties were also directed to address whether the record is sufficiently developed for appellate review. Id.

The Government concedes that the record is not sufficiently developed for review by this court. Accordingly, the Government now moves to remand this matter to the district court to allow for the development of a complete record.

The Government's motion is well-taken. Accordingly, the judgment of the district court is vacated and the matter is remanded for further proceedings.

MOTION TO REMAND GRANTED; JUDGMENT VACATED; MOTION FOR EXTENSION OF TIME TO FILE BRIEF DENIED AS MOOT.