

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-40961  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RUBEN ROBERT REYES,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. L-95-CR-143-1  
- - - - -

August 21, 1996

Before KING, DUHÉ, and DeMOSS, Circuit Judges.

PER CURIAM:\*

In this direct criminal appeal, Ruben Robert Reyes contends that he received ineffective assistance from his attorney who, despite promises to the contrary, failed to challenge an enhancement under 21 U.S.C. § 851, which resulted in Reyes being subject to a 10-year mandatory minimum sentence. Reyes asserts that, but for counsel's promises, he would not have pleaded guilty.

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

We decline to review Reyes' ineffective assistance of counsel claim because the claim was not raised before the district court and the record is not sufficiently developed on the merits of Reyes' allegations. See United States v. Higdon, 832 F.2d 312, 313-14 (5th Cir. 1987), cert. denied, 484 U.S. 1075 (1988). Thus, we AFFIRM, without prejudice to Reyes' right to raise the issue in a proceeding pursuant to 28 U.S.C. § 2255.

The motion to supplement the record is denied.

AFFIRMED; MOTION DENIED.