

UNITED STATES COURT OF APPEALS

FIFTH CIRCUIT

No. 96-30863

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JACK HONEYCUTT,

Defendant - Appellant.

Appeals from the United States District Court
for the Eastern District of Louisiana
(93-CV-2752 M)

November 10, 1997

Before EMILIO M. GARZA, STEWART, and DENNIS, Circuit Judges.

PER CURIAM:*

Jack Honeycutt appeals from the district court's dismissal of his 28 U.S.C. § 2255 petition to vacate, set aside or correct his sentence under 18 U.S.C. §§ 922(g)(1) (felon in possession of a firearm) and 924(e)(1) (armed career criminal). The magistrate judge correctly determined that Honeycutt failed to make the proper showing of prejudice required by *Strickland v. Washington*, 466 U.S. 668, 693, 104 S.Ct. 2052, 2067, 80 L.Ed.2d 674 (1984) (holding that

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

convicted defendants claiming ineffective assistance of counsel must demonstrate both deficient performance and prejudice), and by *United States v. Olano*, 507 U.S. 725, 737, 113 S.Ct. 1770, 1779, 123 L.Ed.2d 508 (1993) ("presence of alternate jurors during jury deliberations" does not constitute reversible error "independent of its prejudicial impact").

Accordingly, we affirm for substantially the reasons set out in the Report and Recommendation of the United States Magistrate Judge, which the district court adopted.

AFFIRMED.