

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-10423  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CAROLE RUTH SMITH,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:92-CR-500-D  
- - - - -

February 11, 1998

Before JONES, SMITH and STEWART, Circuit Judges.

PER CURIAM:\*

Carole Ruth Smith, federal prisoner # 23664-077, appeals the judgment of the district court denying her motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. She raises the sole issue whether the district court erred in denying relief on her claim that she received ineffective assistance of counsel at trial.

The record before the court is inadequate to accomplish meaningful appellate review. See United States v. Pierce, 959

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

F.2d 1297, 1301 (5th Cir. 1992) (citing inter alia United States v. Higdon, 832 F.2d 312, 313-14 (5th Cir. 1987)). Smith's claims of ineffective assistance of counsel are not procedurally barred because, as a general rule, they cannot be resolved on direct appeal unless a record exists to evaluate such a claim. Id. In this case the record has not been developed in the district court. Accordingly, we VACATE the judgment of the district court and REMAND the case to afford the district court an opportunity to address Smith's claims. The motion for bail pending appeal is DENIED.

VACATED AND REMANDED; BAIL PENDING APPEAL DENIED.