

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-50963
(Summary Calendar)

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALBERT PENA CASAS,
also known as Albert Simon Casarez,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
(USDC No. 97-CR-1-1)
- - - - -

May 13, 1998

Before WIENER, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Albert Pena Casas appeals his conviction and sentence for being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). Casas contends that (1) the district court erred in refusing to grant him a three-level downward adjustment in his base offense level for acceptance of responsibility; (2) the district court denied him allocution at the sentencing hearing; and (3) his counsel rendered ineffective assistance in informing him that his

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

sentence would run concurrently with his state-court criminal sentence.

Casas waived the right to challenge his sentence in his plea agreement. United States v. Melancon, 972 F.2d 566, 567 (5th Cir. 1992). Casas was not denied his right of allocution. See Fed. R. Crim. P. 32(c)(3)(C). Casas' ineffective-assistance-of-counsel claim cannot be resolved on direct appeal because the claim was not raised before the district court and no opportunity existed to develop the record on the merits of the allegations. United States v. Higdon, 832 F.2d 312, 313-14 (5th Cir. 1987).

AFFIRMED.