

June 21, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-50173  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

VERNAL K. KILLINGS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 2:03-CR-124-26  
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Before STEWART, DENNIS, and OWEN, Circuit Judges.

PER CURIAM:\*

Vernal K. Killings appeals the sentence imposed following his plea of guilty to conspiracy to distribute marijuana. He argues that this court should vacate his sentence because the record demonstrates ineffective assistance of counsel at sentencing.

In general, claims of ineffective assistance will not be considered on direct appeal when the claims were not raised in the district court because there has been no opportunity to develop record evidence on the merits of the claim. United

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

States v. Lampazianie, 251 F.3d 519, 527 (5th Cir. 2001). Thus, when the record does not contain information regarding the tactical motivations behind counsel's actions or information regarding how the alleged errors influenced the result of the trial, this court has declined to address an ineffective assistance issue on appeal. See United States v. Maria-Martinez, 143 F.3d 914, 916 (5th Cir. 1998). Because we find the record insufficient for review of Killings's claims, we affirm the judgment of the district court without prejudice to Killings's right to raise his claims in a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. Id. at 918-19.

AFFIRMED.