

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-10667
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ODELL HARMON,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:96-CV-413-P
- - - - -

March 6, 1998

Before DUHE', DeMOSS and DENNIS, Circuit Judges.

PER CURIAM:*

Odell Harmon, prisoner # 22488-077, appeals the district court's denial of his 28 U.S.C § 2255 motion in which he argued that he received ineffective assistance of counsel based upon his attorney's erroneous advice that Harmon's sentence would be five to seven years if he pleaded guilty. Harmon was sentenced to 25 years' imprisonment on one count of distribution of more than five grams of cocaine base.

Harmon was properly advised by the district court when

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

pleading guilty that he faced a maximum sentence of 40 years' imprisonment. He cannot claim that his guilty plea was involuntary based upon his attorney's erroneous prediction about the length of the sentence. United States v. Gracia, 983 F.2d 625, 629 (5th Cir. 1993).

Harmon's motion for leave to file a pro se supplemental appellate brief or, alternatively, to proceed pro se on appeal is DENIED.

AFFIRMED.