

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-50273
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

AUBREY "BUCK" BARCHEERS, also known as
Audrey "Buck" Barcheers,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. MO-96-CR-138-1

February 16, 2000

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

PER CURIAM:*

The Appellant, Aubrey "Buck" Barcheers, appeals the district court's denial of his Fed. R. Crim. P. 33 motion for a new trial. Barcheers argues that the federal criminal investigation and conviction of his trial attorney on illegal drug charges, occurring at the same time of Barcheers' trial, created a conflict of interest that denied Barcheers a fair trial and the right to counsel.

We have reviewed the record and briefs submitted by the parties and find that district court did not abuse its discretion

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

in concluding that Barcheers' claims were improperly brought under Rule 33. United States v. Medina, 118 F.3d 371, 372 (5th Cir. 1997). We do so without prejudice to Barcheers' right to seek federal post-conviction relief.

AFFIRMED.