

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-2533

Guy Randy White Horse,

Appellant,

v.

United States of America,

Appellee.

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Appeal from the United States
District Court for the
District of South Dakota.

[UNPUBLISHED]

Submitted: December 22, 2006

Filed: December 27, 2006

Before RILEY, COLLOTON, and GRUENDER, Circuit Judges.

PER CURIAM.

Guy Randy White Horse appeals the district court's¹ denial of his 28 U.S.C. § 2255 motion challenging his sexual-abuse conviction. Having received a certificate of appealability from the district court, he raises issues related to ineffective assistance of counsel and United States v. Booker, 543 U.S. 220 (2005).

Upon de novo review, we conclude that White Horse's ineffective-assistance claim fails because it is not reasonably probable that, but for his counsel's alleged

¹The Honorable Karen E. Schreier, Chief Judge, United States District Court for the District of South Dakota.

errors, the result of his criminal proceedings would have been different. See Strickland v. Washington, 466 U.S. 668, 687-94 (1984) (ineffective-assistance claim requires showing that (1) counsel’s performance was objectively deficient and (2) deficient performance prejudiced defense, meaning there is “a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different”); Bear Stops v. United States, 339 F.3d 777, 779 (8th Cir. 2003) (district court’s denial of § 2255 relief is reviewed de novo). We further conclude that White Horse’s Booker claim is unavailing. See Never Misses A Shot v. United States, 413 F.3d 781, 783-84 (8th Cir. 2005) (per curiam) (rule announced in Booker does not apply to final criminal judgments on collateral review).

The judgment is affirmed. See 8th Cir. R. 47B.
