

United States Court of Appeals
Fifth Circuit

FILED

August 21, 2007

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 06-50612
Conference Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

MARIO CESAR ARENAS

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:05-CR-1562

Before HIGGINBOTHAM, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

Mario Cesar Arenas appeals his guilty-plea conviction for conspiracy to possess and distribute one kilogram or more of heroin in violation of 21 U.S.C. § 846. Arenas argues that one of his attorneys, Joseph Sib Abraham, Jr., rendered ineffective assistance of counsel because counsel was absent during Arenas's sentencing. Another of Arenas's attorneys, Luis E. Esclas, was present during Arenas's sentencing.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

This court generally will not consider claims of ineffective assistance of counsel on direct appeal except in those “rare cases where the record allowed [this court] to evaluate fairly the merits of the claim.” *United States v. Higdon*, 832 F.2d 312, 313-14 (5th Cir. 1987). This is not one of those cases. Without prejudice to Arenas’s right to file a motion pursuant to 28 U.S.C. § 2255, the judgment of the district court is **AFFIRMED**.