

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

December 18, 2012

Lyle W. Cayce
Clerk

No. 12-40812

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ALEJANDRO CASILLAS PRIETO, also known as Alex,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:10-CR-169-1

Before SMITH, PRADO, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Alejandro Casillas Prieto appeals from his jury verdict conviction and life sentence for conspiracy to possess with intent to manufacture and distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine and/or 50 grams or more of methamphetamine (actual). His sole argument on appeal is that his trial counsel rendered ineffective assistance by failing to properly advise him regarding his lower sentencing exposure had he pleaded guilty. Casillas Prieto contends that, with the proper advice, he

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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would not have rejected the Government's plea offer and would have received a lesser sentence than ultimately imposed. The Government moves for summary affirmance or, alternatively, for an extension of time in which to file its brief.

As a general rule, this court will not consider a claim of ineffective assistance of counsel that was not raised in district court. *United States v. Miller*, 406 F.3d 323, 335-36 (5th Cir. 2005). Moreover, the Supreme Court has emphasized that a 28 U.S.C. § 2255 motion is the preferred method for raising a claim of ineffective assistance of counsel. *Massaro v. United States*, 538 U.S. 500, 504 (2003). As the record for this case is not sufficiently developed to qualify for an exception to that general rule, we decline to consider Casillas Prieto's ineffective assistance claim in this appeal without prejudice to his ability to raise this claim in a § 2255 motion. *See United States v. Higdon*, 832 F.2d 312, 314 (5th Cir. 1987).

Accordingly, the judgment of the district court is AFFIRMED. The Government's motion for summary affirmance is DENIED. Because no further briefing is required, the Government's alternative motion for an extension of time to file a brief is DENIED.