

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

No. 17-30310
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 9, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

LEROY SMITH,

Defendants-Appellant

Appeals from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:15-CR-185-1

Before HIGGINBOTHAM, JONES, and SMITH, Circuit Judges.

PER CURIAM:*

Larry Smith appealed his guilty plea to a drug conspiracy, alleging ineffective assistance of counsel that led to an unknowing and involuntary plea. The government, with admirable candor, admits that it mis-charged one object of the conspiracy and therefore, the district court's plea colloquy was inaccurate. Consequently, the government believes the errors may have affected the knowing and voluntary nature of the plea. Both parties agree to vacate the sentences and remand to the district court for further proceedings.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Smith also requests an order to vacate his guilty plea. Based on the record before us, we reject a premature ruling on the validity of the guilty plea. The sentences imposed by the district court are **VACATED**, and the case is **REMANDED** for further proceedings including an examination of the voluntariness and knowingness of the plea.