**NOT RECOMMENDED FOR PUBLICATION**
File Name: 10a0058n.06

**No. 08-5859**

**UNITED STATES COURT OF APPEALS**
**FOR THE SIXTH CIRCUIT**



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|---|---|---|
| United States of America, | ) | |
| | ) | |
| Plaintiff-Appellee, | ) | |
| | ) | |
| v. | ) | ON APPEAL FROM THE UNITED |
| | ) | STATES DISTRICT COURT FOR |
| | ) | THE EASTERN DISTRICT OF |
| Charles Edward Bush, | ) | TENNESSEE |
| | ) | |
| Defendant-Appellant. | ) | |

Before: SILER, ROGERS, and McKEAGUE, Circuit Judges.

**PER CURIAM**. Charles Edward Bush, who is serving a sentence of 33 months' imprisonment as a result of his guilty plea to one count of wire fraud, raises an ineffective assistance of counsel claim on direct appeal. Bush asserts in an affidavit that he pled guilty based on information that he would not receive a term of imprisonment. The affidavit does not explicitly state the source of this information; however, Bush contends on appeal that his guilty plea was not knowingly, voluntarily, or intelligently entered into because he was misled by the affirmative misstatements of his trial counsel that, if he pled guilty, he would only receive a probationary sentence.

We do not normally entertain claims of ineffective assistance of counsel on direct appeal. *See United States v. Franklin*, 415 F.3d 537, 555 (6th Cir. 2005) ("[I]t is our general practice not to consider ineffective assistance claims on direct appeal because they are better left to a

post-conviction motion to vacate under 28 U.S.C. § 2255."). Because "a defendant must make more than merely speculative assertions," *Bowen v. Foltz*, 763 F.2d 191, 194 (6th Cir. 1985), and because the record has not been sufficiently developed to assess the merits of Bush's allegations, we decline to consider the merits of his ineffective assistance of counsel claim. *See United States v. Allison*, 59 F.3d 43, 47 (6th Cir. 1995). The district court is the better forum for initial review of this claim in a post-conviction motion to vacate under 28 U.S.C. § 2255. *Franklin*, 415 F.3d at 555. Accordingly, we affirm Bush's sentence and conviction without prejudice.

**AFFIRMED**.