

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 06-1760

United States of America,	*
	*
Plaintiff – Appellee,	*
	* Appeal from the United States
v.	* District Court for the
	* Southern District of Iowa.
Virginia Ledesma-Cardenas,	*
	* [UNPUBLISHED]
Defendant – Appellant.	*

Submitted: June 11, 2007
Filed: June 20, 2007

Before BYE, RILEY, and BENTON, Circuit Judges.

PER CURIAM.

Virginia Ledesma-Cardenas appeals the dismissal of her motion to vacate, set aside, or correct her sentence, claiming her trial counsel failed to file a notice appealing that sentence. *See* 28 U.S.C. § 2255. At an evidentiary hearing, counsel stated (and the district court¹ found) that initially Ledesma wanted to appeal, but after they discussed her case, he believed she no longer wished to appeal. Although Ledesma testified that she never discussed the possibility of appeal with her counsel, she now relies on his testimony to argue that she told him she wanted to appeal. The

¹ The Honorable James E. Gritzner, United States District Judge for the Southern District of Iowa.

district court found counsel credible, concluding that Ledesma's desire to appeal was not made manifest to him, and therefore counsel did not fail in his duty to file an appeal.

This court defers to a district court's credibility determination. *Barger v. United States*, 204 F.3d 1180, 1182 (8th Cir. 2000) (affirming district court decision crediting attorney's testimony that his client did not request an appeal); *Green v. United States*, 323 F.3d 1100, 1103 (8th Cir. 2003) (same). Ledesma's assertion that she made a request is not "by itself sufficient to support a grant of relief [under § 2255], if evidence that the fact-finder finds to be more credible indicates the contrary position." *Id.* Having carefully reviewed the record, this court finds that the district court's findings of fact are not clearly erroneous, and no error of law appears. *See United States v. Davis*, 406 F.3d 505, 508 (8th Cir. 2005); *Green*, 323 F.3d at 1103; *Barger*, 204 F.3d at 1182.

As an extended opinion would have no precedential value, the judgment of the district court is affirmed. *See* 8th Cir. R. 47B.
