

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

October 15, 2007

No. 06-51359
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

GILBERTO MADRILES-GUZMAN, also known as Gilberto M Guzman

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:06-CR-355-1

Before KING, DAVIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Gilberto Madriles-Guzman appeals his conviction and sentence for conspiracy to possess with intent to distribute cocaine and possession with intent to distribute cocaine. Madriles-Guzman argues that his retained attorney performed ineffectively at trial and at sentencing and that the district court plainly erred during voir dire by commenting on the quantity of drugs involved in the offense.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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, 503-04 (2003). We decline to address the claims of ineffective counsel raised in this case because there has been no opportunity to develop the record as to the merits of the claims. See *United States v. Miller*, 406 F.3d 323, 335-36 (5th Cir.), cert. denied, 126 S. Ct. 207 (2005). The district court's comments during voir dire were not plainly erroneous. See *United States v. Lankford*, 196 F.3d 563, 572-73 (5th Cir. 1999).

AFFIRMED.