

UNPUBLISHED
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA, <i>Plaintiff-Appellee,</i> v. ISIDORO GONZALEZ ALMANZA, <i>Defendant-Appellant.</i>

No. 01-4420

Appeal from the United States District Court
for the Western District of North Carolina, at Statesville.
Richard L. Voorhees, District Judge.
(CR-00-44-V)

Submitted: August 13, 2002

Decided: September 19, 2002

Before WILKINS, NIEMEYER, and MICHAEL, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Leslie Carter Rawls, Charlotte, North Carolina, for Appellant. Robert J. Conrad, Jr., United States Attorney, Brian Lee Whisler, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Isidora Almanza appeals his conviction and sixty three month sentence for conspiracy to possess with intent to distribute marijuana and cocaine, in violation of 21 U.S.C. §§ 841, 846 (2000). At trial, videotapes of Almanza selling drugs to undercover police in controlled buys were shown to the jury. Almanza's counsel conceded the tapes depicted Almanza selling drugs, but argued this did not establish Almanza was involved in a drug conspiracy.

On appeal, Almanza argues his counsel was ineffective for conceding the tapes depicted him selling drugs. The record does not conclusively establish Almanza's counsel was ineffective, and consequently, this claim is not cognizable on direct appeal, and must be raised under 28 U.S.C. § 2255 (2000). *United States v. Richardson*, 195 F. 3d 192, 198 (4th Cir. 1999), *cert. denied*, 528 U.S. 1096 (2000); *United States v. King*, 119 F.3d 290, 295 (4th Cir. 1997); *United States v. Leifried*, 732 F.2d 388, 390 (4th Cir. 1984); *United States v. Fisher*, 477 F.2d 300, 302 (4th Cir. 1973).

Accordingly, we affirm Almanza's conviction and sentence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not significantly aid the decisional process.

AFFIRMED