

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-5039

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GERMAN MILLON,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of North Carolina, at Charlotte. Robert J. Conrad, Jr.,
Chief District Judge. (3:05-cr-00341-1)

Submitted: April 23, 2008

Decided: May 2, 2008

Before WILLIAMS, Chief Judge, and NIEMEYER and TRAXLER, Circuit
Judges.

Affirmed by unpublished per curiam opinion.

Tolly A. Kennon, III, KENNON & ASSOCIATES, Charlotte, North
Carolina, for Appellant. Amy Elizabeth Ray, OFFICE OF THE UNITED
STATES ATTORNEY, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

German Millon appeals his conviction and seventy-month sentence imposed after he pled guilty, pursuant to a plea agreement, to one count of conspiracy to possess with intent to distribute marijuana and cocaine, in violation of 21 U.S.C. §§ 841(a)(1), 846 (2000). On appeal, Millon states only a single claim of ineffective assistance of counsel. The Government has moved to dismiss Millon's appeal based upon a waiver of appellate rights in his plea agreement.

We deny the Government's motion to dismiss. We have reviewed Millon's claim and conclude that it does not "conclusively appear[]" on the record that counsel was ineffective. United States v. Richardson, 195 F.3d 192, 198 (4th Cir. 1999) (internal quotation marks omitted). Millon may raise his ineffective assistance claim in proceedings under 28 U.S.C. § 2255 (2000). We therefore affirm Millon'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 aid the decisional process.

AFFIRMED