

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 07-4197**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

PABLO TRUJILLIO-GUDINO,

Defendant - Appellant.

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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-00317)

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Submitted: September 12, 2007      Decided: September 20, 2007

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Before WILKINSON, TRAXLER, and SHEDD, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Aaron E. Michel, Charlotte, North Carolina, for Appellant.  
Gretchen C.F. Shappert, United States Attorney, Adam Morris, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Pablo Trujillo-Gudino pled guilty to conspiracy to possess five or more kilograms of cocaine with the intent to distribute, in violation of 21 U.S.C. §§ 846, 841(b)(1)(A) (2000), and possession of five or more kilograms of cocaine with the intent to distribute, in violation of § 841(a)(1), (b)(1)(A). The district court sentenced him to 151 months' incarceration.

On appeal, Trujillo-Gudino argues he received ineffective assistance because counsel failed to (1) advocate his innocence at the Rule 11 hearing; (2) move to withdraw his guilty plea; and (3) advocate for a lesser sentence during the sentencing hearing. This court "may address [claims of ineffective assistance of counsel] on direct appeal only if the lawyer's ineffectiveness conclusively appears from the record." United States v. Baldovinos, 434 F.3d 233, 239 (4th Cir.), cert. denied, 546 U.S. 1203 (2006). Because we find that ineffective assistance of counsel does not conclusively appear on the record, we decline to address these claims on direct appeal. Rather, any claims of ineffective assistance of counsel Trujillo-Gudino wishes to raise should be pursued in a timely motion for post-conviction relief submitted pursuant to 28 U.S.C. § 2255 (2000).

Accordingly, we affirm Trujillo-Gudino's convictions 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