

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 09-4155**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAYMOND BROWN, III,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Columbia. Joseph F. Anderson, Jr., District Judge. (3:07-cr-00155-JFA-6)

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Submitted: April 28, 2010

Decided: May 12, 2010

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Before WILKINSON, KING, and SHEDD, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Glen D. Nager, Jennifer L. Swize, JONES DAY, Washington, D.C., for Appellant. W. Walter Wilkins, United States Attorney, Stacey D. Haynes, Assistant United States Attorney, Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Pursuant to a plea agreement, Raymond Brown, III, pled guilty to conspiracy to possess with intent to distribute and to distribute fifty grams or more of cocaine base, five kilograms or more of cocaine, and a quantity of marijuana, in violation of 21 U.S.C. § 846 (2006). The district court sentenced Brown to 121 months' imprisonment. Brown timely appealed.

Brown's sole argument on appeal is that he was denied effective assistance of counsel because his trial attorney failed to object to the assessment of three criminal history points based on his September 2004 juvenile adjudications for trespassing and disturbing schools. Claims of ineffective assistance of counsel generally are not cognizable on direct appeal. United States v. King, 119 F.3d 290, 295 (4th Cir. 1997). Rather, to allow for adequate development of the record, a defendant must bring his claim in a 28 U.S.C.A. § 2255 (West Supp. 2009) motion. See id.; United States v. Hoyle, 33 F.3d 415, 418 (4th Cir. 1994). An exception exists where the record conclusively establishes ineffective assistance. United States v. Richardson, 195 F.3d 192, 198 (4th Cir. 1999); King, 119 F.3d at 295. Our review of the record reveals that it does not conclusively show that counsel was ineffective. We therefore decline to consider this argument on appeal.

Accordingly, we affirm the district court's judgment. 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