

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-4774

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

THOMAS EARL BIGGERS,

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. (3:11-cr-00149-RJC-1)

Submitted: May 15, 2013

Decided: May 22, 2013

Before MOTZ, AGEE, and THACKER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Robert Carpenter, ADAMS, HENDON, CARSON, CROW & SAENGER, PA, Asheville, North Carolina, for Appellant. Anne M. Tompkins, United States Attorney, William M. Miller, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thomas Earl Biggers pleaded guilty pursuant to a written plea agreement to possession of a firearm by a convicted felon, in violation of 18 U.S.C. § 922(g)(1) (2006), and was sentenced to 115 months' imprisonment. Biggers appeals his sentence, asserting that counsel was ineffective in failing to object to the four-level sentencing enhancement imposed pursuant to U.S. Sentencing Guidelines Manual § 2K2.1(b)(6) (2011). We affirm.

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 generally must bring his claims in a 28 U.S.C.A. § 2255 (West Supp. 2012) motion. Id.; United States v. Hoyle, 33 F.3d 415, 418 (4th Cir. 1994). An exception exists when the record conclusively establishes ineffective assistance. United States v. Richardson, 195 F.3d 192, 198 (4th Cir. 1999); King, 119 F.3d at 295. Upon review of the record, we conclude that it does not conclusively show that Biggers' counsel was ineffective, and we therefore decline to consider this issue on direct 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 this court and argument would not aid the decisional process.

AFFIRMED