

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 10-10694
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT DECEMBER 29, 2010 JOHN LEY CLERK
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D.C. Docket Nos. 0:09-cv-61871-WPD,
0:06-cr-60186-WPD-3

YVONNE MAY RICHARDS,

Petitioner - Appellant,

versus

UNITED STATES OF AMERICA,

Respondent - Appellee.

Appeal from the United States District Court
for the Southern District of Florida

(December 29, 2010)

Before BLACK, WILSON and PRYOR, Circuit Judges.

PER CURIAM:

Yvonne May Richards appeals pro se the denial of her motion to vacate. 28 U.S.C. § 2255. Richards argues that her appellate attorney was ineffective for failing to file a petition for a writ of certiorari in the Supreme Court and she is entitled to relief from her conviction for conspiracy to launder money, 18 U.S.C. § 1956(h), based on the decision of the Supreme Court in United States v. Santos, 553 U.S. 507, 128 S. Ct. 2020 (2008). We affirm.

Both of Richards's arguments are foreclosed by caselaw. Richards's appellate attorney cannot be deemed to have acted ineffectively for failing to file a petition for a writ of certiorari, Wainwright v. Torna, 455 U.S. 586, 587–88, 102 S. Ct. 1300, 1301 (1982), because there is no right under the Sixth Amendment to counsel to pursue a discretionary application for review in the Supreme Court, Ross v. Moffitt, 417 U.S. 600, 616–18, 94 S. Ct. 2437, 2447 (1974). The decision of the Supreme Court in Santos that “the gross receipts of an unlicensed gambling operation were not ‘proceeds’ under section 1956,” United States v. Demarest, 570 F.3d 1232, 1242 (11th Cir. 2009), does not invalidate Richards's conviction for laundering money acquired from health care fraud. See United States v. Jennings, 599 F.3d 1241, 1252 (11th Cir. 2010); Demarest, 570 F.3d at 1242. The district court did not err by denying Richards's motion to vacate.

AFFIRMED.