

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-13902
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JASON STEVEN MCWILLIAMS,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Alabama
D.C. Docket No. 2:23-cr-00117-RAH-SMD-1

Before ROSENBAUM, GRANT, and LUCK, Circuit Judges.

PER CURIAM:

Following a traffic stop, Jason McWilliams was charged with conspiring to distribute fentanyl. He moved to suppress the evidence found in his car because the police did not have cause to stop

him. After a hearing, the district court denied the suppression motion.

On the eve of trial, McWilliams pleaded guilty pursuant to a plea agreement. As part of the agreement, McWilliams waived “any and all rights” to appeal his conviction and sentence, except “on the grounds of ineffective assistance of counsel.”

This appeal invokes the exception. McWilliams raises one issue, arguing that his trial counsel was ineffective in failing to suppress the evidence from the traffic stop, and in handling plea negotiations and the guilty plea.

The problem for McWilliams is that, “[e]xcept in the rare instance when the record is sufficiently developed, we will not address claims for ineffective assistance of counsel on direct appeal.” *United States v. Verbitskaya*, 406 F.3d 1324, 1337 (11th Cir. 2005), *abrogated in part on other grounds by United States v. Durham*, 795 F.3d 1329, 1330–31 (11th Cir. 2015) (en banc). This is not a rare instance.

The record is not sufficiently developed to address his ineffective-assistance-of-counsel claim. For example, McWilliams relies on a recording of the traffic stop that was not part of the record below, and we have no record evidence about what trial counsel advised McWilliams during plea negotiations and the plea hearing.

We, thus, affirm his conviction “without prejudice to his right to raise the issue of ineffective assistance of counsel in a proper proceeding pursuant to 28 U.S.C. [section] 2255.” *United States v. Ungar*, 794 F.2d 640, 641 (11th Cir. 1986). In that proper proceeding, McWilliams can sufficiently develop the record and

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brief the scope and applicability of his collateral-attack waiver to his claims.

AFFIRMED.