

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 98-3467NI

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United States of America,

Appellee,

v.

Robert Wade,

Appellant.

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On Appeal from the United  
States District Court for the  
Northern District of Iowa.

[To be published]

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Submitted: May 11, 1999

Filed: May 21, 1999

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Before RICHARD S. ARNOLD, JOHN R. GIBSON, and BOWMAN, Circuit Judges.

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PER CURIAM.

This is a proceeding under 28 U.S.C. §2255 in which the appellant, Robert Wade, seeks to have his conviction on drug charges set aside. The conviction was previously affirmed on direct appeal. See United States v. Wade, 1992 W.L. 301953 (8th Cir., October 23, 1992) (No. 92-2173).

Mr. Wade's major arguments have to do with the performance of his counsel at the time of sentencing. This performance, he says, was deficient, and the deficiency

was such as to undermine confidence in the outcome of the sentencing proceedings. Both a Magistrate Judge<sup>1</sup> and the District Court<sup>2</sup> have written thorough opinions painstakingly examining each of the arguments advanced by Wade. We have nothing of substance to add, and see no reason to encumber the record with still another detailed discussion of the parties' contentions. Accordingly, the judgment will be affirmed on the basis of the District Court's opinion.

In addition to the ineffective-assistance-of-counsel claims and certain other arguments, defendant makes an Ex Post Facto Clause argument, claiming that Guidelines §3B1.1, as it existed at the time of the commission of the offense, did not allow consideration of relevant conduct in connection with a defendant's role in the offense. This argument is foreclosed by our decision in United States v. Larson, 110 F.3d 620, 627 n.8 (8th Cir. 1997).

Affirmed.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

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<sup>1</sup>The Hon. John A. Jarvey, United States Magistrate Judge for the Northern District of Iowa.

<sup>2</sup>The Hon. David R. Hansen, United States Circuit Judge for the Eighth Circuit, sitting by designation.