

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-20884
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE LUIS RUIZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-91-CR-27-4

April 10, 2002

Before SMITH, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:*

Jose Luis Ruiz, federal prisoner #59024-079, appeals the district court's denial of his petition for writ of error *coram nobis*, which was treated as a successive motion to vacate his sentence pursuant to 28 U.S.C. § 2255.

The district court properly denied Ruiz' petition for writ of error *coram nobis*. The writ of error *coram nobis* is used to attack invalid convictions which have continuing consequences when the petitioner has served his sentence and is no longer in custody for purposes of 28 U.S.C. § 2255. United States v.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Morgan, 346 U.S. 502, 506-13 (1954). Because Ruiz is currently incarcerated, this remedy is unavailable to him as a matter of law.

Because Ruiz was asserting that his sentence was unconstitutional and should be vacated, the district court properly treated Ruiz' petition as a successive § 2255 motion. See 28 U.S.C. § 2255. The district court did not err in denying Ruiz' successive motion to vacate his sentence. Because Ruiz failed to obtain authorization from this court prior to filing his successive § 2255 motion, the district court lacked jurisdiction to entertain his claims. 28 U.S.C. § 2255; 28 U.S.C. § 2244(b)(3)(A). Accordingly, the district court's judgment is affirmed.

AFFIRMED.