

September 2, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 02-20236
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE BELTRAN,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-94-CR-248-2

Before HIGGINBOTHAM, EMILIO M. GARZA, and PRADO, Circuit Judges.

PER CURIAM:*

Jose Beltran, federal prisoner number 66254-079, was convicted of one charge of aiding and abetting possession with intent to distribute more than five kilograms of cocaine. The district court sentenced him to 188 months in prison and a five-year term of supervised release and ordered him to pay a fine. Following a direct appeal and 28 U.S.C. § 2255 motion, Beltran filed a motion seeking modification of his fine. The

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

instant appeal challenges the district court's denial of this motion. The propriety of Beltran's fine is not cognizable under any postconviction motion. The district court thus lacked jurisdiction to consider the motion. See United States v. Early, 27 F.3d 140, 141 (5th Cir. 1994). Because the district court was without jurisdiction to consider the motion, the district court's denial of the motion is AFFIRMED on the alternate basis of lack of jurisdiction. See id.