

October 8, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-50750  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KEITH RUSSELL JUDD,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. MO-98-CR-93-1  
USDC No. MO-01-CV-40  
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Before HIGGINBOTHAM, DAVIS, and PRADO, Circuit Judges.

PER CURIAM:\*

Keith Russell Judd, federal prisoner no. 11593-051, was convicted by a jury of two counts of mailing a threatening communication with the intent to extort money or something of value and was sentenced to 210 months of imprisonment. Before his conviction was final, Judd filed a motion to vacate under 28 U.S.C. § 2255. The district court dismissed the 28 U.S.C. § 2255

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

motion as premature. Judd seeks a certificate of appealability (COA).

This court must examine the basis of its jurisdiction on its own motion if necessary. See Mosley v. Cozby, 813 F.2d 659, 660 (5th Cir. 1987). "A timely filed notice of appeal is a jurisdictional prerequisite to [this court's] review." Dison v. Whitley, 20 F.3d 185, 186 (5th Cir. 1994). Because there is nothing in the record which may be construed as a timely notice of appeal, this court is thus without jurisdiction to consider this case. FED. R. APP. P. 4(a)(1)(B). The appeal is DISMISSED.

Judd's motion for a COA and his motion to proceed in forma pauperis (IFP) on appeal are DENIED as unnecessary.

APPEAL DISMISSED; MOTIONS DENIED.