

April 21, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-10760
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BRENDA ROBERTSON FINE,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:95-CR-00009

Before JOLLY, JONES, and SMITH, Circuit Judges.

PER CURIAM:*

Brenda Robertson Fine, federal prisoner # 27050-077, has appealed the district court's order denying her motion for appointment of counsel. Fine contends that she is entitled to appointed counsel under 21 U.S.C. § 848(q)(4)(A) & (8) because she is a "capital" defendant. Because Fine was not sentenced to death, she is not awaiting execution of a "judgment imposing a sentence of death." Accordingly, she is not entitled to appointment of counsel under 21 U.S.C. § 848(q)(4)(A) & (8). 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

appeal is dismissed as frivolous. We caution Fine that the filing of frivolous motions and appeals in the future will invite the imposition of a sanction.

APPEAL DISMISSED WITH SANCTION WARNING.