

December 10, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-30716
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FREDERICK D. LAWSON, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 97-CR-10016-01

Before DAVIS, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:*

Frederick D. Lawson, Jr., federal prisoner #09678-035, appeals the denial his post-conviction motion to dismiss the indictment against him filed pursuant to FED. R. CRIM. P. 12(b)(3)(B) and (e). This court construes Lawson's motion to dismiss the indictment as a 28 U.S.C. § 2255 motion. Because Lawson neither requested nor obtained the required certification from this court to file a successive 28 U.S.C. § 2255 motion, the district court should have dismissed Lawson's motion for lack of

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

jurisdiction. See United States v. Rich, 141 F.3d 550, 553 (5th Cir. 1998).

Moreover, even if this court construes Lawson's motion to dismiss the indictment as being filed under Rule 12(b)(3)(B) and (e), the criminal proceedings were no longer pending and, thus, Lawson's motion was unauthorized and without a jurisdictional basis. See United States v. Early, 27 F.3d 140, 142 (5th Cir. 1994).

The judgment of the district court is AFFIRMED.