

August 31, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-61041
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DARON DEMETRIS KENNEY, also known as Tall Dog,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 4:03-CV-226
USDC No. 4:93-CR-134-1

Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Daron Demetris Kenney, federal prisoner # 02255-112, has filed an appeal from the district court's order dismissing his 28 U.S.C. § 2255 motion as an unauthorized successive 28 U.S.C. § 2255 motion. Because Kenney had previously filed a 28 U.S.C. § 2255 motion challenging his conviction, see United States v. Kenney, No. 4:93-CR-134-S (N.D. Miss. Aug. 1, 2001) (unpublished), and because Kenney had not obtained this court's authorization to file a second or successive 28 U.S.C. § 2255

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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, the district court lacked jurisdiction to consider Kenney's motion. See 28 U.S.C. §§ 2244(b)(3)(A) and 2255; United States v. Key, 205 F.3d 773, 774 (5th Cir. 2000). Accordingly, Kenney's appeal is DISMISSED. We do not reach the question certified by the district court.

APPEAL DISMISSED.