

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-60540
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BOBBY H. RUSSELL,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 3:94-CV-168
- - - - -

March 1, 1996

Before GARWOOD, JONES, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Bobby Russell appeals the district court's order denying his "Petition to Modify Sentence Pursuant to Rule § 2255." Russell's "petition," which seeks a reduction of his sentence, does not provide the basis for a valid collateral attack pursuant to 28 U.S.C. § 2255. Russell's challenge to the propriety of his fine was not raised on direct appeal. Accordingly, this claim is not addressed.

The appeal is without arguable merit and thus frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). We caution Russell that any additional frivolous appeals filed by him will

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

invite the imposition of sanctions. To avoid sanctions, Russell is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous because they have been previously decided by this court.

APPEAL DISMISSED. See 5th Cir. Rule 42.2.