

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-10322
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE CABALLERO,

Defendant-Appellant.

Appeal from the United States District Court
For the Northern District of Texas
(3:94-CR-163-R)

August 9, 1996

Before POLITZ, Chief Judge, GARWOOD and BENAVIDES, Circuit Judges.

PER CURIAM:*

Jose Caballero, a Texas state prisoner, appeals the district court's denial of his 28 U.S.C. § 2255 motion to vacate his conviction and sentence as violative of the double jeopardy clause. Caballero maintains that he was twice punished in that

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

a civil forfeiture of his automobile occurred prior to his sentencing.

Caballero's complaint is foreclosed by the holding in the very recent decision of the Supreme Court in **United States v. Ursery**,¹ reaffirming "our traditional understanding that civil forfeiture does not constitute punishment for the purpose of the Double Jeopardy Clause."²

The judgment appealed is **AFFIRMED**.

¹ _____ U.S. _____ (June 24, 1996), 1996 WL 340815, *14--*16.

² **Id.** at *13.