

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-30187  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

THOMAS CIPRANO,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 95-CV-3407-LLM  
- - - - -

February 11, 1998

Before SMITH, EMILIO M. GARZA, and DeMOSS, Circuit Judges.

PER CURIAM:\*

Thomas Ciprano appeals from the denial of his motion to vacate, set-aside or correct sentence pursuant to 28 U.S.C. § 2255. He argues that he was not properly advised of the fact that the ultimate right to decide whether or not to testify belonged to him.

Having reviewed the record and the briefs of the parties, we find that the district court did not clearly err in finding that Ciprano had been advised several times of his right to testify on

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

his own behalf, and that he voluntarily waived that right. See *United States v. Thompson*, 122 F.3d 304, 306 (5th Cir. 1997). As Ciprano's argument is without arguable merit, the appeal is thus frivolous and is dismissed pursuant to 5th Cir. R. 42.2.

DISMISSED.