

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-20028  
Summary Calendar

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AUTRY LEE JONES,

Plaintiff-Appellant,

versus

GARY L. JOHNSON, DIRECTOR, TEXAS  
DEPARTMENT OF CRIMINAL JUSTICE,  
INSTITUTIONAL DIVISION,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-94-CV-1111  
- - - - -

June 9, 1998

Before KING, HIGGINBOTHAM and DAVIS, Circuit Judges.

PER CURIAM:\*

Autry Lee Jones, federal prisoner # 52873-080-CB-110, requests that this court issue a certificate of appealability (COA) so that he may appeal the district court's denial of his petition for writ of error coram nobis. Jones wishes to challenge a 1963 Texas conviction for which he is no longer in custody.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Jones may not seek in federal court the relief that he requests because it falls outside the ambit of both *coram nobis* and habeas corpus. See United States v. Dyer, 136 F.3d 417, 422 (5th Cir. 1998); Cavett v. Ellis, 578 F.2d 567, 569 n. 4 (5th Cir. 1978). Accordingly, COA is DENIED.

Jones' appeal is without arguable merit and is frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5th Cir. R. 42.2.

Jones' motion to proceed in forma pauperis is DENIED.

COA DENIED; APPEAL DISMISSED; IFP DENIED.