

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-10307
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALBERT DEMERSON, III,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:97-CR-139-1-P
- - - - -
December 13, 2000

Before DAVIS, STEWART, and PARKER, Circuit Judges.

PER CURIAM:*

Albert Demerson, III, federal prisoner # 30222-077, appeals from the denial of his motion for leave to file an out-of-time motion to correct, set aside, or vacate a sentence pursuant to 28 U.S.C. § 2255. He failed to provide a substantial basis for his motion in district court. He has also failed to establish a substantial basis for his request for equitable tolling in this court.

Accordingly, the district court's denial of his motion for leave to file an out-of-time motion pursuant to 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

is AFFIRMED. The Government's motion requesting issuance of a certificate of appealability ("COA") and Demerson's motions seeking COA and opposing the Government's motion are DENIED.

AFFIRMED; MOTIONS DENIED.