

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-30110  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHESTER CHERAMIE,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 93-CR-229-ALL-J  
USDC No. 97-CV-1164  
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August 28, 2000

Before KING, Chief Judge, and POLITZ and WIENER, Circuit Judges.

PER CURIAM:\*

Chester Cheramie, federal prisoner # 17581-034, appeals the district court's denial of his petition for a writ of error coram nobis. Cheramie argues that at resentencing, the district court erroneously used his prior conspiracy convictions to enhance his sentence in conflict with this court's decision on direct appeal. Cheramie is not entitled to coram nobis relief because he is still in custody. See United States v. Castro, 26 F.3d 557, 559 (5th Cir. 1994). Further, Cheramie could have raised this issue

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

in a direct appeal after resentencing, but failed to do so. The writ of coram nobis may not be used as a substitute for appeal. See United States v. Dyer, 136 F.3d 417, 422 (5th Cir. 1998).

Motion for COA DENIED as MOOT. AFFIRMED.