

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-30712
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MICHAEL NELSON,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 93-CR-55-1-A

December 13, 2000

Before DAVIS, STEWART, and PARKER, Circuit Judges.

PER CURIAM:*

Michael Nelson, federal prisoner #02461-095, requests a certificate of appealability (COA) to appeal from the district court's denial of his petition for writ of coram nobis pursuant to 28 U.S.C. § 1651. Nelson's request for a COA is DENIED AS UNNECESSARY. See United States v. Dyer, 136 F.3d 417, 429 n.32 (5th Cir. 1998)

"The writ of coram nobis is an extraordinary remedy available to a petitioner no longer in custody who seeks to vacate a criminal conviction in circumstances where the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

petitioner can demonstrate civil disabilities as a consequence of the conviction, and that the challenged error is of sufficient magnitude to justify the extraordinary relief." Jimenez v. Trominski, 91 F.3d 767, 768 (5th Cir. 1996). Because Nelson is still in custody, he is not entitled to coram nobis relief. His appeal is therefore DISMISSED AS FRIVOLOUS. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.

COA DENIED AS UNNECESSARY; APPEAL DISMISSED AS FRIVOLOUS.