

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-40721
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JESUS JOSÉ ESCOBAR,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC Nos. C-00-CV-10 &
C-96-CR-84-1
- - - - -

April 11, 2001

Before JOLLY, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:*

Jesus José Escobar, a federal prisoner, appeals from the district court's dismissal of his 28 U.S.C. § 2255 motion as time-barred by 28 U.S.C. § 2255's one-year statute of limitations. We have reviewed the record and the briefs of the parties, and we ascertain no reversible error.

Escobar's conviction became final on October 5, 1998, the date on which the Supreme Court denied his petition for a writ of certiorari. See United States v. Thomas, 203 F.3d 350, 356 (5th

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Cir. 2000). Because Escobar filed his 28 U.S.C. § 2255 motion more than one year after this date, the district court did not err by dismissing it as time-barred. See id.; 28 U.S.C. § 2255(1).

Escobar's assertion that the district court's application of Thomas amounted to a violation of Teague v. Lane, 489 U.S. 288 (1989), is meritless because Thomas merely construed the limitations aspect of 28 U.S.C. § 2255; it did not announce a new rule of constitutional law. Nor has Escobar established rare and exceptional circumstances that would entitle him to equitable tolling of the limitations period. See Davis v. Johnson, 158 F.3d 806, 811 (5th Cir. 1998). The district court's judgment of dismissal is AFFIRMED.