

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 92-1045
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

VERSUS

DOYLE LEE SANDERS,

Defendant-Appellant.

Appeal from the United States District Court
For the Northern District of Texas
(USDC No. CR24-89-163-K)

(December 2, 1992)

Before HIGGINBOTHAM, SMITH, and DeMOSS, Circuit Judges.

PER CURIAM:*

Doyle Sanders argues that, because the judgment and commitment order for his sentence does not state whether his sentence runs concurrently or consecutively with other sentences that he was serving, the ambiguity should be interpreted in his favor and the sentences should run concurrently. This argument arises under 28 U.S.C. § 2255. See United States v. Gabor, 905 F.2d 76, 77 (5th

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Cir. 1990).

"Relief under . . . § 2255 is reserved for transgressions of constitutional rights and for a narrow range of injuries that could not have been raised on direct appeal and would, if condoned, result in a complete miscarriage of justice." United States v. Vaughn, 955 F.2d 367, 368 (5th Cir. 1992). Sanders' argument does not have a constitutional basis. The last sentence of 28 U.S.C. § 3584(a) states:

"Multiple terms of imprisonment imposed at different times run consecutively unless the Court orders that the terms are to run concurrently."

No miscarriage of justice will result from a conclusion that the sentencing judge apparently intended to impose a consecutive sentence.

Sanders also argues that, during the sentencing hearing, the sentencing judge **failed to award** him credit for time served in federal custody prior to the imposition of the sentence. Sanders is not entitled to relief through this argument. During that hearing, the sentencing judge did not have authority to determine whether Sanders would receive credit for time served or what amount he would receive. United States v. Wilson, ___ U.S. ___, 112 S. Ct. 1351, 1353-55, 117 L.Ed.2d 593 (1992).

In his brief to this Court, Sanders argues that his plea bargain was induced by a promise that he would receive a concurrent sentence, that his plea agreement actually contained such a provision, and that double jeopardy provisions were violated by the imposition of a consecutive sentence. We refuse to consider these

issues because they were not raised in the district court. R. 32-33, 40-41; Fransaw v. Lynaugh, 810 F.2d 518, 523 (5th Cir.), cert. denied, 483 U.S. 1008 (1987).

Sanders' motion to expedite his appeal is DENIED as moot. The district court's judgment is AFFIRMED.