

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-4888
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TONYA C. BURGINS,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:92-CV-55 (6:91-CR-02(02))

(March 18, 1993)

Before KING, HIGGINBOTHAM, AND DAVIS, Circuit Judges.

PER CURIAM:*

Appellant, Tonya C. Burgins, under 28 U.S.C. § 2255 collaterally attacks her conviction on the grounds that the district court improperly applied the sentencing guidelines by failing to award her both a two-level reduction in her offense level for being a minimal participant and a two-level reduction for acceptance of responsibility.

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Section 2255 "is reserved for transgressions of constitutional rights and for that narrow compass of other injury that could not have been raised on direct appeal and, would, if condoned, result in a complete miscarriage of justice." United States v. Capua, 656 F.2d 1033, 1037 (5th Cir. 1981) (citation omitted).

Nonconstitutional claims that could have been raised on direct appeal, but were not, may not be asserted in a collateral proceeding. Id. "A district court's technical application of the Guidelines does not give rise to a constitutional issue." United States v. Vaughn, 955 F.2d 367, 368 (5th Cir. 1992). Burgins' role in the offense and her acceptance of responsibility are issues touching upon the district court's technical application of the guidelines and are nonconstitutional in nature. Burgins provides no reason why she did not raise these issues on direct appeal. The district court properly denied relief.

Therefore, the denial of the § 2255 motion is AFFIRMED.