

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-2710
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ARTURO BANGUERA,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CR-H-90-365
- - - - -

June 30, 1995

Before JONES, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Arturo Banguera pleaded guilty to one count of possession of cocaine with intent to distribute and was sentenced to 63 months imprisonment, four years supervised release, and a \$50 special assessment. As part of his plea agreement, Banguera agreed not to challenge the Government's forfeiture of \$177,090 and a red Nissan Pathfinder.

Banguera filed a motion under 28 U.S.C. § 2255 challenging the criminal forfeiture of his assets. The district court denied

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

the motion on the merits. This court may affirm on other grounds. See Sojourner T. v. Edwards, 974 F.2d 27, 30 (5th Cir. 1992), cert. denied, 113 S. Ct. 1414 (1993).

Section 2255 is limited to claims relating to unlawful custody. United States v. Segler, 37 F.3d 1131, 1136-37 (5th Cir. 1994). Because Banguera is challenging only the forfeiture of assets, which does not go to the validity of his conviction or sentence, his claim is not cognizable under § 2255. Id.

For the first time on appeal, Banguera argues that he was denied effective assistance of counsel; that the forfeiture is an excessive fine under the Eighth Amendment; that his guilty plea was coerced; and that the forfeiture provisions are applied in a discriminatory manner. This court need not address issues not considered by the district court. "[I]ssues raised for the first time on appeal are not reviewable by this court unless they involve purely legal questions and failure to consider them would result in manifest injustice." Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991).

AFFIRMED.