

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-3022  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HENRY FERGUSON,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. CR 91 339 D CA# 92-3790 D

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June 24, 1993

Before POLITZ, Chief Judge, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM:\*

Relief under section 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).

Nonconstitutional claims that could have been raised on direct appeal, but were not, may not be asserted in a collateral proceeding. Id. Furthermore, a district court's technical

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

application of the sentencing guidelines does not give rise to a constitutional issue. Id.

Henry Ferguson was sentenced within the guideline range, and he did not appeal his sentence. In addition, his claim is not of constitutional dimension, it could have been raised on direct appeal, and there has been no showing as to why it was not. Ferguson's claim, therefore, is not cognizable under the limited scope of relief available under section 2255.\*\*

AFFIRMED.

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\*\* On the first page of his brief, Ferguson suggests that he was denied effective assistance of counsel. Ferguson, however, did not raise this issue in his section 2255 motion. This Court, therefore, will not address that issue. See United States v. Armstrong, 951 F.2d 626, 630 (5th Cir. 1992).