

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-3106
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DENNIE M. LYONS,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Esatern District of Louisiana
USDC No. CR 91 83 K & CA 92 3936
- - - - -

August 20, 1993

Before JOLLY, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:*

Dennie M. Lyons pleaded guilty to copyright infringement and possession and uttering counterfeit food stamps in violation of 18 U.S.C. §§ 2, 472, and 2319. He was sentenced to 51 months' imprisonment, three years' supervised release, and a \$250,000 fine.

Lyons did not file a direct appeal, but instead filed a motion under 28 U.S.C. § 2255 challenging his sentence. The district court denied the motion because Lyons raised non-

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

constitutional issues which could have been raised on direct appeal.

On appeal, Lyons argues only two of the sentencing guidelines issues raised in the district court: 1) that the amount of loss was miscalculated; and 2) that his criminal history score was incorrectly determined.

"Relief under 28 U.S.C.A. § 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). Lyons was sentenced within the guideline range and did not appeal his sentence. "A district court's technical application of the Guidelines does not give rise to a constitutional issue." Id. Lyons' claim is not cognizable under § 2255.

Lyons' appeal is DISMISSED AS FRIVOLOUS. See Fed. R. App. P. 42.2.