

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-3220
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WINSTON DEMANUEL,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. CA-92-2320
- - - - -
(December 15, 1993)

Before GARWOOD, JOLLY, and BARKSDALE, Circuit Judges.

PER CURIAM:*

By this 28 U.S.C. § 2255 motion, Winston Demanuel presents several challenges to the sentence imposed by the district court. He argues that the district court erred by sentencing him as a career offender based on two related offenses; erred in its calculation of the base offense level based on the total quantity of dilaudid involved; and that it should retroactively apply the amendments to the guideline provision for acceptance of responsibility to his sentence.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

"Relief under 28 U.S.C. § 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). "A district court's technical application of the Guidelines does not give rise to a constitutional issue." Id. Nonconstitutional claims that could have been raised on direct appeal, but were not, may not be asserted in a collateral proceeding. United States v. Capua, 656 F.2d 1033, 1037 (5th Cir. 1981). The district court correctly determined that Demanuel is procedurally barred from raising these challenges to his sentence in a collateral proceeding when they could have been raised on direct appeal. Even if the issues presented in his § 2255 were reviewable on appeal, the court would find that they lack merit. Accordingly, the denial of the § 2255 is AFFIRMED.