

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-3641
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DARVIN ALEXANDER BADGER,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. CA-92-2332 (CR-92-191-H3)

- - - - -
(May 18, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

The district court did not abuse its discretion when it dismissed without prejudice Darvin Alexander Badger's 28 U.S.C. § 2255 motion because his appeal of the dismissal of a prior § 2255 motion was pending before this Court. See Rule 12 of the Rules Governing 28 U.S.C. § 2255 Proceedings.

AFFIRMED.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.