

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-8518
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MICHAEL STEPHEN HAGOOD,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. A-93-CA-133-SS (A-92-CR-64-01-SS)

- - - - -
(July 22, 1994)

Before POLITZ, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

Michael Stephen Hagood is not entitled to proceed in forma pauperis (IFP) on appeal of the denial of his 28 U.S.C. § 2255 motion because his appeal does not present a non-frivolous legal issue. Jackson v. Dallas Police Dep't, 811 F.2d 260, 261 (5th Cir. 1986).

A defendant may waive his rights under § 2255 as part of a plea agreement, if his waiver is informed and voluntary and not

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.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 result of ineffective assistance of counsel. United States v. Wilkes, 20 F.3d 651, 653 (5th Cir. 1994); see also United States v. Baty, 980 F.2d 977, 978-79 (5th Cir. 1992), cert. denied, 113 S.Ct. 2457 (1993). It is not possible for this Court to review Hagood's allegation that his waiver of § 2255 rights was involuntary because Hagood has not provided the record necessary for the Court to review this claim. Fed. R. App. P. 10(b); see United States v. Hinojosa, 958 F.2d 624, 632 n.5 (5th Cir. 1992). Hagood's alternative argument that the plea agreement is void because the Government breached the agreement is meritless. See United States v. Asset, 990 F.2d 208, 216 (5th Cir. 1993).

Hagood's substantive allegations concerning sentencing errors do not involve issues for which relief is available under § 2255. United States v. Vaughn, 955 F.2d 367, 368 (5th Cir. 1992).

Hagood's motion to appeal IFP is DENIED and the appeal is DISMISSED.