

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-10848
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAMIRO ENRIQUEZ,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:92-0279-R
- - - - -
(March 23, 1995)

Before GARWOOD, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Ramiro Enriquez appeals the dismissal without prejudice of his motion for relief pursuant to 28 U.S.C. § 2255. Generally, "a criminal defendant may not collaterally attack his conviction until it has been affirmed on direct appeal." *Fassler v. United States*, 858 F.2d 1016, 1019 (5th Cir. 1988), *cert. denied*, 490 U.S. 1099 (1989). The general prohibition is not jurisdictional, however, and a court may consider a collateral attack in

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

exceptional circumstances. *Woollard v. United States*, 416 F.2d 50, 51 (5th Cir. 1968).

Enriquez's direct appeal is pending in this court. He has not shown exceptional circumstances that would lead us to consider his collateral attack. Because it presents no issue of arguable merit, Enriquez's appeal is frivolous. See 5TH CIR. R. 42.2.

APPEAL DISMISSED.