IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

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No. 94-20306

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

DRAKE WILLIAMS,

Defendant-Appellant.

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Appeal from the United States District Court
for the Southern District of Texas
(CA-H-92-3805;CR-H-84-2301)

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(March 9, 1995)

Before KING, GARWOOD and BENAVIDES, Circuit Judges.

PER CURIAM:[*]

Appellant Drake Williams appeals the district court's denial of his application for a writ of habeas corpus pursuant to 28 U.S.C. § 2255. Williams argues that, through inadvertence, this court failed to review a meritorious and properly preserved error on Williams' direct appeal, specifically the prejudice to Williams caused by the district court's failure to voir dire the jury

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

regarding mid-trial publicity. As the district court correctly noted, Williams does not dispute that this court was presented with his mid-trial publicity argument on a number of occasions in connection with his direct appeal. As Williams' counsel recognized at oral argument, there is nothing in the record before this panel that was not before the panel that heard his direct appeal and the associated petitions for rehearing and motions. In essence, this panel is being asked to overrule the decision of the prior panel. Assuming arguendo that we could revisit the decision of the prior panel, we are not persuaded by the arguments or by the record that this is a case in which we should.

Williams' second argument fares no better. This court previously addressed and rejected his claim that he was denied his Sixth Amendment right to effective assistance of counsel due to an alleged conflict of interest stemming from the fact that his attorney represented both Williams and his brother. Again, assuming arguendo that an intervening change in the law could entitle Williams to relitigate the alleged conflict issue, we have no arguable basis for revisiting the decision of the panel on Williams' direct appeal. The intervening Supreme Court decision that he points to, Wheat v. United States, 486 U.S. 153 (1988), does not alter the applicable law.

The judgment of the district court is AFFIRMED.