

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-20416
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JEFFREY SCOTT BISAGNA,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA-H-94-1393
(CR-H-90-0240)

- - - - -
(November 17, 1994)

Before JONES, DUHÉ and PARKER, Circuit Judges.

PER CURIAM:*

Jeffrey Scott Bisagna filed a motion to vacate his sentence pursuant to 28 U.S.C. § 2255 asserting that the district court erred: (1) in imposing a \$5000 fine for incarceration costs against him in the absence of a punitive fine; and (2) in imposing the fine despite evidence that he was indigent. Bisagna's argument regarding the propriety of the fine is a nonconstitutional issue relative to sentencing that should have been raised on direct appeal. United States v. Davis, No. 93-

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

8131 (5th Cir. Oct. 29, 1993) (copy attached); United States v. Vaughn, 955 F.2d 367, 368 (5th Cir. 1992). Therefore, we will not consider the issue raised for the first time in a motion to vacate a sentence under 28 U.S.C. § 2255. The district court's dismissal of Bisagna's § 2255 motion is AFFIRMED.