

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-50592  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SAMMYE GEIGER,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. W-92-CR-74(1)

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(January 27, 1995)

Before POLITZ, Chief Judge, and HIGGINBOTHAM and DeMOSS,  
Circuit Judges.

PER CURIAM:\*

Sammye Geiger contends that the district court improperly denied his 28 U.S.C. § 2255 motion. He does not raise or brief the issue raised in the district court concerning the imposition of a fine, and thus that issue is deemed abandoned. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987).

Geiger asserts for the first time on appeal that various sections of the sentencing guidelines are ambiguous, warranting application of the rule of lenity. We need not address issues

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

not considered by the district court. "[I]ssues raised for the first time on appeal are not reviewable by this [C]ourt unless they involve purely legal questions and failure to consider them will result in manifest injustice." Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991). Geiger has not demonstrated that manifest injustice will result if we do not consider these issues.

Relief under § 2255 is reserved for transgressions of constitutional rights and for a narrow range of injuries that could not have been raised on direct appeal and would, if condoned, result in a complete miscarriage of justice. United States v. Vaughn, 955 F.2d 367, 368 (5th Cir. 1992). A district court's technical application of the guidelines is not of constitutional dimension. Id. A nonconstitutional claim that could have been raised on direct appeal, but was not, may not be raised in a collateral proceeding. Id.

Geiger's argument that the district court improperly enhanced his sentence under the controlled-substance-offense provisions of the guidelines is a nonconstitutional claim that could have been resolved on direct appeal. Accordingly, his claim does not fall within the narrow ambit of § 2255 review. We therefore AFFIRM. See Hanchey v. Energas Co., 925 F.2d 96, 97 (5th Cir. 1990).

AFFIRMED.