IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60045
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHARLES ARRINGTON,

Defendant-Appellee.

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Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. CA-2:93-219 (CRH91-00015)

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(September 23, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:[*]

Arrington argues that (1) the district court erred by using conduct underlying counts dismissed as part of the plea agreement to calculate his base offense level and (2) the district court erred by denying his request for a reduction for acceptance of responsibility. Arrington has abandoned his argument that the Government breached the plea agreement.

"[A] `collateral challenge may not do service for an appeal.'" United States v. Shaid, 937 F.2d 228, 231 (5th Cir.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

1991) (en banc) (quoting United States v. Frady, 456 U.S. 152, 165, 102 S. Ct. 1584, 71 L. Ed. 2d 816 (1982)), cert. denied, 112 S. Ct. 978 (1992). Allegations of error not of constitutional or jurisdictional magnitude and not raised on direct appeal may not be asserted in a § 2255 motion, unless the defendant can show the error "could not have been raised on direct appeal, and if condoned, would result in a complete miscarriage of justice." Id. at 232 n.7. "A district court's technical application of the Guidelines does not give rise to a constitutional issue." United States v. Vaughn, 955 F.2d 367, 368 (5th Cir. 1992).

The arguments Arrington raises on appeal attack the district court's application of the Guidelines in calculating his base offense level and in denying his request for a reduction for acceptance of responsibility. He did not raise these issues on direct appeal and makes no attempt to explain why he could not have done so. Accordingly, these issues are not cognizable under § 2255. See Vaughn, 955 F.2d at 368.

AFFIRMED.