

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-10908
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAYMOND PAUL JOHNSON,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:94-CV-1483-D
- - - - -

April 30, 1996

Before JOLLY, JONES and DeMOSS, Circuit Judges.

PER CURIAM:*

Raymond Johnson appeals from the district court's denial of his motion to vacate his sentence pursuant to 28 U.S.C. § 2255. He asserts that the district court determined that the Government violated the prohibitions of Brady v. Maryland, 373 U.S. 83 (1963), yet erroneously denied his § 2255 motion. Johnson misreads the magistrate judge's report and recommendation and the district court's order adopting it. Applying the procedural bar,

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

the magistrate judge determined that, even if the asserted Brady violations were true, Johnson could not show prejudice.

Johnson's asserted Brady violations are without merit because the purported exculpatory and impeachment evidence cannot be deemed "material" as defined in United States v. Bagley, 473 U.S. 667, 682 (1985). Thus, even assuming Johnson's assertions to be true, the Government did not violate Brady. Because Johnson's only asserted claims are Brady violations, and those claims are without merit, the district court did not err by denying Johnson's § 2255 motion. Johnson's motion to supplement the record is DENIED.

AFFIRMED.