

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-11124

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UNITED STATES OF AMERICA

Plaintiff - Appellant

v.

MELVIN GLEN NEAL, also known as Glen Neal

Defendant - Appellee

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Appeal from the United States District Court  
for the Northern District of Texas  
(4:95-CV-405-K)

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August 9, 1996

BEFORE KING, SMITH, and WIENER, Circuit Judges.

PER CURIAM:\*

The district court's judgment entered October 2, 1995 granting Melvin Glen Neal's Motion to Vacate or Correct Sentence under 28 U.S.C. § 2255, as amended, and dismissing with prejudice "the case against Melvin Glen Neal" is vacated. The district court abused its discretion in granting the writ and dismissing the case against Neal as a sanction for the government's tardiness in filing its response to Neal's amended motion. The case is remanded to the district court for further proceedings.

VACATED and REMANDED.

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\*Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

