

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-30133  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SON T. TRAN,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 94-CA-4087  
- - - - -

June 27, 1996

Before HIGGINBOTHAM, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Son T. Tran appeals from the district court's denial of his motion under 28 U.S.C. § 2255. Tran's sole argument on appeal, that the district court erred in departing upwardly in sentencing him, is not a cognizable § 2255 issue. *United States v. Vaughn*, 955 F.2d 367, 368 (5th Cir. 1992). Tran's appeal is frivolous, and it is DISMISSED as such. See 5TH CIR. R. 42.2.

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

No. 95-10648

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APPEAL DISMISSED.