

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-30521  
USDC No. 95-CA-81-B

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FRANK BETHLEY,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Middle District of Louisiana  
- - - - -

December 13, 1995

Before JOLLY, JONES and STEWART, Circuit Judges.

PER CURIAM:\*

Frank H. Bethley moves for leave to proceed in forma pauperis (IFP) to appeal the district court's denial of his 28 U.S.C. § 2255 motion for post-conviction relief. He must show that he has a nonfrivolous issue for appeal. Carson v. Polley, 689 F.2d 562, 586 (5th Cir. 1982). He argues that counsel was ineffective and that the district court improperly determined his sentence. We have reviewed the record and the reasoning of the district court in denying the § 2255 motion. Additionally, we

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

are precluded from deciding issues previously decided on direct appeal. United States v. Bethley, 973 F.2d 396, 398-402 (5th Cir. 1992), cert. denied, 113 S. Ct. 1323 (1993); United States v. Kalish, 780 F.2d 506, 508 (5th Cir.), cert. denied, 476 U.S. 1118 (1986). We find no nonfrivolous issue. IFP is DENIED and the appeal is DISMISSED. 5th Cir. R. 42.2.