

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-40629
Conference Calendar

JIMMY RAY HILL, also known as
Greg Bolling,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-95-CV-190
- - - - -

March 1, 1996

Before GARWOOD, JONES, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Jimmy Ray Hill appeals from the district court's dismissal without prejudice of his habeas petition, which the district court construed as a 28 U.S.C. § 2255 motion. Hill's appellate brief is construed as a motion to proceed in forma pauperis (IFP) on appeal. Because Hill's alleged errors occurred at or prior to sentencing, his habeas petition was properly construed as a motion seeking relief pursuant to § 2255. See United States v. Gabor, 905 F.2d 76, 77 (5th Cir. 1990); Solsona v. Warden, 821 F.2d 1129, 1132 (5th Cir. 1987). Section 2255 motions must be

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

filed in the district in which the petitioner was sentenced. Solsona, 821 F.2d at 1132. Hill filed his motion in the Southern District of Texas, but he was sentenced in the Western District of Texas. The district court therefore lacked jurisdiction to entertain Hill's motion. Hill's motion to proceed IFP on appeal is DENIED and the appeal is DISMISSED.

DISMISSED.