

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-50428
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JAMES B. MITCHELL,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. DR-94-CA-35
- - - - -

November 30, 1995

Before WIENER, PARKER and DENNIS, Circuit Judges.

PER CURIAM:*

James B. Mitchell's motion for leave to proceed *in forma pauperis* (IFP) is DENIED.

Mitchell appeals the denial of his motion for relief under 28 U.S.C. § 2255. Mitchell contends that 1) his sentence for failure to appear at his aviation-smuggling sentencing violates the Double Jeopardy Clause; 2) the Government breached its plea agreement with Mitchell by refusing to move for a downward departure pursuant to

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

U.S.S.G. § 5K1.1; 3) the district court violated FED. R. CRIM. P. 11; and 4) he received ineffective assistance of counsel.

We have reviewed the record and the district court's thorough opinion and find no nonfrivolous issues for appeal. See *Jackson v. Dallas Police Dep't*, 811 F.2d 260, 261 (5th Cir. 1986). Additionally, we decline to review Mitchell's Rule 11 contentions, which he raises for the first time on appeal. See *Varnado v. Lynaugh*, 920 F.2d 320, 321 (5th Cir. 1991).

Finally, we have warned Mitchell that frivolous appeals may result in sanctions against him. We impose a monetary sanction of \$50 on Mitchell and order the clerk of this court not to accept any appellate filings from Mitchell until that monetary sanction is paid, unless Mitchell receives the written permission of a judge of this court.

APPEAL DISMISSED. See 5TH CIR. R. 42.2.