

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-11184  
UDC No. 5:96-CV-1

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JON RICHARD O'KANE,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
- - - - -

January 23, 1998

Before JOLLY, BENAVIDES and PARKER, Circuit Judges.

PER CURIAM:\*

Jon Richard O'Kane, federal prisoner #23739-077, has filed a motion to reinstate appeal and to direct the Clerk to establish a briefing schedule. This court construes the motion as a motion for reconsideration of single-judge order denying O'Kane a certificate of appealability (COA) to appeal the dismissal of his 28 U.S.C. § 2255 motion to vacate and the panel order denying reconsideration. To the extent that O'Kane moves this court to rescind the orders denying him a COA, the motion is GRANTED. In

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

light of Lindh v. Murphy, 117 S. Ct. 2059, 2068 (1997), O'Kane was not required to obtain a COA to bring his appeal from the denial of his § 2255 motion, which was filed in January 1996.

Insofar as O'Kane moves this court to set a briefing schedule, however, his motion is DENIED. Further briefing is unnecessary in light of the comprehensive brief which O'Kane has filed. See Fed. R. App. P. 28. For essentially the same reasons set forth by the magistrate judge and adopted by the district court in its order of dismissal, see United States v. O'Kane, No. 5:96-CV-001-C, (N.D. Tex. July 15, 1996), we conclude that O'Kane's substantive and other claims are meritless. Accordingly, the denial of § 2255 relief is AFFIRMED.

ORDER DENYING COA RESCINDED; MOTION TO SET BRIEFING SCHEDULE DENIED; JUDGMENT AFFIRMED.