

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-20409  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BRIAN KEITH BABIN,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-92-CR-156-1  
- - - - -

March 28, 1997

Before JONES, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:\*

Brian Keith Babin, #59963-079, appeals the district court's summary denial of his motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255. Babin's claims that the court lacked jurisdiction over his drug-trafficking offenses because such offenses did not affect interstate commerce is without merit. United States v. Owens, 996 F.2d 59, 61 (5th Cir. 1993). His counsel was thus not ineffective in failing to challenge jurisdiction or in failing to request a special jury

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

instruction regarding jurisdiction. Babin's Double Jeopardy Clause argument fails both under Fifth Circuit precedent, United States v. Arreola-Ramos, 60 F.3d 188, 192 (5th Cir. 1995) and under the intervening case of United States v. Ursery, 116 S. Ct. 2135, 2147-49 (1996).

AFFIRMED.