

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-40158
Summary Calendar

UNITED STATES OF AMERICA,

versus

SCOTT KING,

Plaintiff-Appellee,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:95-CV-258
- - - - -
February 18, 1997

Before JONES, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:*

Scott King appeals from the district court's denial of his motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. King argues that the district court erred by rejecting his motion as procedurally barred and that a prior forfeiture proceeding causes his conviction and sentence to violate principles of double jeopardy. Because the Government did not raise the procedural bar in the district court, we

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

address the merits of King's argument and hold that his conviction and sentence do not violate the Double Jeopardy Clause.

To the extent that King requires a certificate of appealability (COA) in order to appeal the district court's judgment, we conclude that King has not made a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2).

AFFIRMED. COA DENIED.