

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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Nos. 95-20663 c/w 96-20103 c/w 96-20486  
No. 97-20058  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALVIS ALLEN BELL,

Defendant-Appellant.

- - - - -  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 94-CR-295-1 c/w CR-H-94-295-1  
USDC No. H-94-CR-295-1  
- - - - -

June 26, 1997

Before KING, JOLLY and DENNIS, Circuit Judges.

PER CURIAM:\*

Alvis Allen Bell, federal prisoner No. 66602-079, moves this court to consolidate his appeal from the denial of a motion which the district court construed as seeking relief under 28 U.S.C. § 2255 with his appeals from the denial of a pretrial suppression motion, the denial of a motion for new trial, and his direct criminal appeal. Bell requests that the court accept his

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

appellate brief in its current form, and he moves the court to stay the briefing schedule until additional documents are added to the record.

Bell's motion to consolidate his appeal from the denial of § 2255 relief, docketed in this court as No. 97-20058, with his other pending appeals is DENIED. Bell's collateral attack on his conviction was not properly before the district. See United States v. Fassler, 858 F.2d 1016, 1017-19 (5th Cir. 1988).

Therefore, appeal No. 97-20058 is REMANDED to the district court for amendment of the judgment to reflect that Bell's application for § 2255 relief is dismissed without prejudice.

Bell's motion to accept his appellate brief is GRANTED and his motion to stay the briefing schedule is DENIED.

MOTION TO CONSOLIDATE DENIED; APPEAL NO. 97-20058 REMANDED FOR AMENDMENT OF JUDGMENT; MOTION TO ACCEPT APPELLATE BRIEF GRANTED; MOTION TO STAY BRIEFING DENIED.