

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-60133
Summary Calendar

ROY GREEN,

Plaintiff-Appellant,

versus

UNITED STATES OF AMERICA,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 3:96-CV-241 B

- - - - -
February 3, 1998

Before KING, HIGGINBOTHAM and DAVIS, Circuit Judges.

PER CURIAM:*

Roy Green seeks a certificate of appealability (COA) in his appeal from the denial of a motion filed pursuant to 28 U.S.C. § 2255. Green's allegations that his conviction cannot be sustained in light of Bailey v. United States, 116 S. Ct. 501

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

(1995); that the trial court failed to instruct the jury properly; and that he was denied the effective assistance of trial counsel and appellate counsel do not rise to a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); Drinkard v. Johnson, 97 F.3d 751, 755 (5th Cir. 1996), cert. denied, 117 S. Ct. 1114 (1997). Accordingly, a COA is DENIED.

Motion for in forma pauperis is also DENIED.