

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-10192
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAMONA JOHNSTON MANTHEI,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
UDC No. 97-CV-858-E
- - - - -

October 30, 1998

Before DAVIS, DUHÉ, and PARKER, Circuit Judges.

PER CURIAM:¹

On November 15, 1989, Ramona Johnston Manthei (Manthei), federal prisoner #18595-077, pleaded guilty to distribution of amphetamine. On October 9, 1997 she filed a habeas petition pursuant to 28 U.S.C. § 2255. The Government filed a motion to dismiss, contending that the petition was time-barred by the 1996 Anti-terrorism and Effective Death Penalty Act (AEDPA) of 1996 (codified at 28 U.S.C. § 2255). The AEDPA sets a one-year statute of limitations for federal habeas petitions.

¹ 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

The district court granted the Government's motion to dismiss. Manthei then filed a certificate of appealability, which the district court granted with respect to the application of the AEDPA statute of limitations to Manthei's § 2255 petition. On appeal Manthei argues that the AEDPA was not enacted until after her conviction and sentence, and its limitation provision should not be retroactively applied. In the alternative she requests equitable tolling of the statute of limitations.

We have reviewed the record and the briefs of the parties and conclude that the district court was correct in dismissing Manthei's petition because it was time-barred under the AEDPA. See *United States v. Flores*, 135 F.3d 1000, 1005 (5th Cir. 1998). Moreover, even assuming arguendo that equitable tolling does apply to the statute of limitations for § 2255 motions, Manthei's reasons for delay do not rise to a level warranting equitable tolling.

AFFIRMED.