

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-10249
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TYRELL DEFARIS ERWIN,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:97-CV-64-P
USDC No. 3:84-CR-168-3-P
- - - - -

August 17, 1998

Before JONES, BARKSDALE and DENNIS, Circuit Judges.

PER CURIAM:*

Tyrell Defaris Erwin, federal prisoner #01120-078, seeks a certificate of appealability (COA) to appeal from the final judgment granting his motion for correction of his sentence pursuant to FED. R. CRIM. P. 35(a) but denying him a new sentencing hearing in conjunction with the correction of his sentence. Erwin's motion for a COA is DENIED as unnecessary. Erwin's motions for dismissal of the indictment, for release pending appeal, for appointment of counsel, and for oral argument

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

all are DENIED.

Erwin contends that he should have received a sentencing hearing in conjunction with the correction of his sentence. We have reviewed Erwin's appellate submissions and we find no reversible error. Accordingly, we affirm for essentially the same reasons on which the district court relied. *See United States v. Erwin*, No. 3:97-CV-064-P (N.D. Tex. Feb. 11, 1998).

Erwin also contends that he was deprived of his right to be indicted by a grand jury from which minorities were not systematically excluded; that various constitutional rights were violated during his criminal proceedings; and that his detention violated the Interstate Detainer Act. Erwin has failed to brief those issues for appeal. *Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

AFFIRMED.