

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40019
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TROY MCINTIRE,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 9:97-CR-2-1
- - - - -
September 24, 1998

Before EMILIO M. GARZA, DeMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Troy McIntire has appealed the denial of his motion to dismiss the indictment upon which he was convicted, on grounds of double jeopardy. McIntire waived this claim, however, by failing to object to the dismissal without prejudice of his original indictment. See United States v. Terry, 5 F.3d 874, 876-77 (5th Cir. 1993).

JUDGMENT AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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