

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-41228
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DONALD GRANT,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:98-CV-199
USDC No. 6:94-CR-47-2

April 26, 2000

Before SMITH, BARKSDALE, and PARKER, Circuit Judges.

PER CURIAM:*

Donald Grant, federal prisoner # 05073-078, appeals the district court's denial of his motion to vacate sentence pursuant to 28 U.S.C. § 2255. He has raised several issues, such as whether his plea was voluntary, whether he carried a weapon "in relation to" a drug-trafficking offense, and whether the Government engaged in "outrageous conduct," for which he was not

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

granted a certificate of appealability (COA). These issues are therefore not properly before the court. See Lackey v. Johnson, 116 F.3d 149, 151-52 (5th Cir. 1997).

This court granted COA on one issue - whether the Government has set forth a sufficient factual basis to support Grant's guilty plea to using and carrying a weapon during and in relation to a drug-trafficking offense because the drug listed in the information was not the substance actually distributed. Grant failed to raise this issue before the district court, and the lower court therefore did not have an opportunity to address the merits of this issue. Consequently, this court does not have jurisdiction to address the merits of this question.

See Whitehead v. Johnson, 157 F.3d 384, 387-88 (5th Cir. 1998). The district court's denial of Grant's § 2255 motion is AFFIRMED.

Grant has also filed a motion to strike the Government's brief, a motion for bond pending appeal, a motion for leave to supplement the record and for the court to take judicial notice, a motion to expedite the appeal, and two motions for summary judgment. These motions are DENIED.

JUDGMENT AFFIRMED; MOTIONS DENIED.