

**June 24, 2003**

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-41467  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MICHAEL DWIGHT RAVEN,  
also known as Red,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas

USDC No. G-01-CV-779

USDC No. G-95-CR-10-1  
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Before DeMOSS, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:\*

Michael Dwight Raven, federal prisoner # 46219079, appeals the district court's dismissal as time-barred of his 28 U.S.C. § 2255 motion challenging his convictions for conspiracy to possess with intent to distribute cocaine and four counts of possession with intent to distribute cocaine. Raven argues that the district court abused its discretion in failing to apply equitable tolling because his counsel represented to him that

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

his motion would be timely filed but inadvertently miscalculated the filing deadline.

Raven admits that the error was the result of counsel's negligence and was not the result of intentional deceit. This court has consistently held that a petitioner may not rely on "mere attorney error or neglect" as a basis for equitable tolling. See Cousin v. Lensing, 310 F.3d 843, 849 (5th Cir. 2002), cert. denied, \_\_ S. Ct. \_\_, No. 02-9984, 2003 WL 1877686 (U.S. June 9, 2003); United States v. Riggs, 314 F.3d 796, 799 (5th Cir. 2002), cert. denied, \_\_ S. Ct. \_\_, No. 02-10784, 2003 WL 21312719 (U.S. June 23, 2003). Therefore, Raven has not demonstrated that the district court abused its discretion in dismissing the motion as time barred.

AFFIRMED.