

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-2344
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JUAN ANTONIO CONTRERAS,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CR-H-90-226
- - - - -
(September 20, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Federal prisoner Juan Antonio Contreras filed a "Motion Requesting Racial Composition of Jurors" in the district court in which he was convicted and sentenced. He alleged that he needed information on jury composition to prepare a motion pursuant to 28 U.S.C. § 2255. The district court denied the motion and denied Contreras leave to appeal in forma pauperis (IFP).

"Plaintiffs in the federal courts must allege some threatened or actual injury resulting from the putatively illegal action before a federal court may assume jurisdiction."

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Ciudadanos v. Hidalgo County Grand Jury Comm'rs, 622 F.2d 807, 814 (5th Cir. 1980) (internal quotations not indicated), cert. denied, 450 U.S. 964 (1981). Contreras has yet to allege an injury. He merely asserted that he was preparing a § 2255 motion. If and when he does make an allegation of injury resulting from his criminal prosecution, it will -- or should -- be in the form of a § 2255 motion, at which time he may move for discovery pursuant to Rule 6 of the Rules Governing § 2255 Proceedings.

The instant motion should have been denied. As an appeal would have no merit, IFP is denied. See Carson v. Polley, 689 F.2d 562, 586 (5th Cir. 1982). The appeal is dismissed. See 5th Cir. R. 42.2.

IFP DENIED. APPEAL DISMISSED.