IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

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No. 98-30236
Summary Calendar
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UNITED STATES OF AMERICA,

                                    Plaintiff-Appellee,

versus

LARRY W. DOUBLIN,

                                    Defendant-Appellant.

- - - - - - - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 95-CR-30024-5
- - - - - - - - - -

May 18, 1999

Before HIGGINBOTHAM, JONES, and DENNIS, Circuit Judges.

PER CURIAM:[*]

     Larry W. Doublin, federal prisoner No. 09044-035, requests a

certificate of appealability (COA) to appeal the district court's

dismissal of his 28 U.S.C. § 2255 motion[**] for failure to comply

with a court order and he requests that this court appoint an

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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that this opinion should not be published and is not precedent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.

     [**] Regardless of their caption, because Doublin is in
custody, his pleadings sound under 28 U.S.C. § 2255 and not as an
application for writ of error coram nobis. See Correa-Negron v.
United States, 473 F.2d 684, 685 (5th Cir. 1973).

attorney to represent him on appeal. The motion for appointment of counsel is DENIED.

The record shows that Doublin timely complied with the court's order to file an affidavit in support of his argument for an out-of-time appeal by attaching the affidavit to a pleading filed in the district court on October 30, 1997. Thus, the district court erred by dismissing his motion for failure to comply with the court's order. Sonnier v. Johnson, 161 F.3d 941, 943 (5th Cir. 1998). This court lacks jurisdiction to consider the merits of Doublin's substantive habeas claims because the district court did not consider whether a COA should be granted on those issues. See Whitehead v. Johnson, 157 F.3d 384, 387-88 (5th Cir. 1998). Accordingly, we GRANT a COA and VACATE AND REMAND to the district court for consideration of Doublin's affidavit.

COA GRANTED; VACATED AND REMANDED; MOTION FOR APPOINTMENT OF COUNSEL DENIED.