

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-60747
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CRAIG EDWARD TANNER,
also known as Gerald Bongiorno,
also known as Jerry Neil Tanner,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 1:94-CR-123-1-D
- - - - -

March 8, 2002

Before DeMOSS, PARKER and DENNIS, Circuit Judges.

PER CURIAM:*

Craig Edward Tanner, federal prisoner # 85601-022, appeals the district court's denial of his Fed. R. Crim. P. 35(a) motion to reduce sentence on remand. Tanner's sentence was not on remand before the district court; therefore, his Rule 35(a) motion was unauthorized. His instant request for an order of remand is an untimely attempt to appeal his conviction and sentence. The district court's judgment is 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

Alternatively, Tanner requests authorization to file a successive § 2255 motion. He has failed to assert either a new rule of constitutional law or newly discovered evidence that would entitle him to file a successive motion in the district court. See 28 U.S.C. § 2255; 28 U.S.C. § 2244(b)(3)(A)-(C). Accordingly, his request is DENIED.

AFFIRMED; motion DENIED.