

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-50600  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

NASSER ASSED,

Defendant-Appellant.

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Appeal from the United States District Court for the  
Western District of Texas  
USDC No. W-94-CA-168

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October 1, 1996

Before HIGGINBOTHAM, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Nasser Assed, #52420-080, appeals from the district court's denial of his motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. We have reviewed the record and the briefs of the parties and find no reversible error. In denying Assed's request to have his sentence reduced, the district court did not err in holding that the 12.75 pounds

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

of methamphetamine Assed had admitted to producing provided an offense level equal or higher to the one under which he was initially sentenced, making any resentencing unnecessary. See United States v. Townsend, 55 F.3d 168 (5th Cir. 1995). Assed's assertion that the district court erroneously based his sentence on d-methamphetamine is not an issue of constitutional or jurisdictional magnitude and, thus, may not be raised for the first time in a § 2255 motion. See United States v. Seyfert, 67 F.3d 544, 546 (5th Cir. 1995). Assed's ineffective-assistance-of-counsel claim is without merit because he has failed to show that his attorney's performance was deficient. See Strickland v. Washington, 466 U.S. 668, 687 (1984). The judgment of the district court is AFFIRMED. Assed's motion for the appointment of counsel is DENIED.

AFFIRMED.