

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-10062
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARK ANTHONY PULLOCK,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:95-CV-2805-H
- - - - -

October 23, 1996

Before DAVIS, EMILIO M. GARZA and STEWART, Circuit Judges.

PER CURIAM:*

Mark Anthony Pullock, federal prisoner #19984-077, moves this court for in forma pauperis (IFP) status to appeal the district court's judgment dismissing his motion brought pursuant to 28 U.S.C. § 2255 as successive under Rule 9(b) of the Rules Governing § 2255 Proceedings. The inadequacy of a pro se movant's legal research, his lack of assistance of counsel, and his lack of actual knowledge of applicable legal theories are not

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

objective external factors giving rise to "cause" for failure to raise issues in his first petition. Saahir v. Collins, 956 F.2d 115, 118-19 (5th Cir. 1992) (28 U.S.C. § 2254 case).

Pullock's reliance on the Sentencing Commission's recommendation that Congress revise the penalty differential between crack cocaine and cocaine powder is misplaced. On October 30, 1995, Congress rejected the Sentencing Commission's recommendation in favor of the current sentencing scheme. See United States v. Fontz, ___ F.3d ___, (5th Cir. Sept. 16, 1996, No. 95-40976), 1996 WL 512012 at *2 (citing Pub. L. No. 104-38, 109 Stat. 334, § 1).

Pullock's motion to proceed IFP is DENIED. Because the appeal is frivolous, the appeal is DISMISSED. See 5th Cir. R. 42.2.

APPEAL DISMISSED.