

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-50214
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ABEL MALDONADO,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. MO-95-CA-218
- - - - -

August 22, 1996

Before KING, DUHÉ, and DeMOSS, Circuit Judges.

PER CURIAM:*

Abel Maldonado, #31962-138, appeals from the district court's order dismissing his motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. He argues that the district court lacked jurisdiction to convict him for violating 21 U.S.C. § 841(a)(1) and that § 841 is unconstitutional.

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

This court has determined that § 841 is a valid exercise of Congress' commerce power. See United States v. Owens, 996 F.2d 59, 61 (5th Cir. 1993). Federal courts have jurisdiction over any criminal prosecution charging a violation of federal law. 18 U.S.C. § 3231; United States v. Drobny, 955 F.2d 990, 997 (5th Cir. 1992).

Maldonado's appeal is without arguable merit and thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5th Cir. R. 42.2.

We caution Maldonado that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Maldonado is further cautioned to review all pending appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED; SANCTION WARNING ISSUED.