

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-40560
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SUNDAY OLASEBIKAN,
a/k/a Sunny,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 9:94-CR-12-9
- - - - -

February 11, 1998

Before SMITH, EMILIO M. GARZA, and DeMOSS, Circuit Judges.

PER CURIAM:*

Sunday Olasebikan, federal prisoner No. 04895-078, appeals the district court's denial of his motion for a writ of error coram nobis. 28 U.S.C. § 1651. The writ of error coram nobis, 28 U.S.C. § 1651, is an extraordinary remedy available to a petitioner no longer in custody who seeks to vacate his criminal conviction. United States v. Castro, 26 F.3d 557, 559 (5th Cir. 1994). Olasebikan admits that he remains in custody as the

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

result of the 5-year sentence he received for his 1995 conviction. Accordingly, the district court did not err in denying Olasebikan's motion. Olasebikan's appeal is without arguable merit and thus is frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because it is frivolous, the appeal is DISMISSED. 5TH CIR. R. 42.2.

Olasebikan is cautioned that any additional frivolous appeals filed by him or on his behalf will invite the imposition of sanctions. To avoid sanctions, Olasebikan should review any pending appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED; SANCTION WARNING ISSUED.