

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-50224
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSÉ RICARDO RUIZ,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. A-92-CR-58-ALL
- - - - -

October 23, 1997

Before POLITZ, Chief Judge, and WIENER and DENNIS, Circuit Judges.

PER CURIAM:*

José Ricardo Ruiz, federal prisoner #12399-080, appeals from the district court's denial of his "motion to dismiss," which is construed by this court as a 28 U.S.C. § 2255 motion. See In re Tolliver, 97 F.3d 89, 90 (5th Cir. 1996). Because Ruiz neither requested nor obtained the required certification from this court to file a successive § 2255 motion, the district court should not have accepted Ruiz's motion for filing. See § 2255. The district court's denial of Ruiz's "motion to dismiss" was

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

therefore not error. Accordingly, the judgment of the district court is AFFIRMED.