

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-51036
(Summary Calendar)

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EARL OSCAR FORESTER,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
(A-95-CR-154-1)
- - - - -

October 26, 1998

Before JOLLY, SMITH, and WIENER, Circuit Judges.

PER CURIAM:*

This appeal is ordered SEVERED from appeal No. 97-51035, United States v. Franklin Rollin Johnston, also known as Johnny Johnston, which is continued for further proceedings on appeal.

Defendant-Appellant Earl Oscar Forester appeals his jury conviction for the possession and uttering of counterfeit securities in violation of 18 U.S.C. § 513. Our review of the record, the arguments of counsel, and applicable authorities

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

convinces us that no reversible error was committed. The indictment was not defective. See United States v. Fitzgerald, 89 F.3d 218, 221 (5th Cir.), cert. denied, 117 S. Ct. 446 (1996). The evidence was not insufficient. See United States v. Fox, 69 F.3d 15, 19 (5th Cir. 1995). And, as there is no showing that he has exhausted his administrative remedies through the Bureau of Prisons, Forester's request for credit for time already served is premature, see United States v. Wilson, 503 U.S. 329, 333-34 (1992); accordingly, we express no opinion as to the merit of this final issue.

Johnston's and Forester's appeals are ordered severed, and Forester's conviction is affirmed.

APPEALS SEVERED; NO. 97-51036 AFFIRMED.