

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-41081
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WILLIE LELAND McQUEEN, also known as Will,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:98-CV-130
USDC No. 4:95-CR-33-2

June 13, 2000

Before JOLLY, DAVIS, and STEWART, Circuit Judges.

PER CURIAM:*

In this 28 U.S.C. § 2255 proceeding, a judge of this court granted Willie Leland McQueen, who is now a federal prisoner (# 05332-078), a certificate of appealability ("COA") to appeal the issue whether the district court erred in dismissing his motion to vacate as being barred by the one-year limitations period in § 2255.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

McQueen's conviction became final when the Supreme Court denied his application for a writ of certiorari on April 21, 1997. See United States v. Thomas, 203 F.3d 350, 356 (5th Cir. 2000). McQueen has conceded that he did not submit his § 2255 motion for mailing to the district court until at least April 23, 1998. Accordingly, his § 2255 motion was not filed within one year after his conviction became final, and it was thus untimely. The judgment of the district court is AFFIRMED.