

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

September 26, 2007

Charles R. Fulbruge III
Clerk

No. 05-20730
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

PETER JAMES HOLLER

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:87-CR-74-2

Before KING, DAVIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Peter James Holler, federal prisoner # 38320-079, appeals the magistrate judge's order dated June 17, 2005, denying his request for transcripts from the court proceedings associated with his 1987 conviction. Holler challenges his 1987 indictment and conviction and argues that the district court violated his constitutional rights during his 28 U.S.C. § 2255 proceedings.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

This court must examine the basis of its jurisdiction on its own motion if necessary. *Mosley v. Cosby*, 813 F.2d 659, 660 (5th Cir. 1987). The magistrate judge's order denying Holler's motion was entered on June 17, 2005. Although Holler filed a motion to dismiss his conviction and a "motion for appeal and/or habeas corpus," Holler did not "clearly evince" his intent to appeal the order. See *Mosley*, 813 F.2d at 660. Rather, Holler sought to have his conviction reversed or the judgment denying his § 2255 motion vacated. This motion should not have been construed as a notice of appeal, but rather an unauthorized motion which the district court was without jurisdiction to entertain. See *United States v. Early*, 27 F.3d 140, 142 (5th Cir. 1994).

Accordingly, Holler's appeal is DISMISSED for want of jurisdiction.