

United States Court of Appeals
for the Fifth Circuit

No. 22-40514
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
February 6, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

EDWARD TODD JACOBS,

Defendant—Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:17-CV-216

Before STEWART, WILLETT, and DOUGLAS, *Circuit Judges.*

PER CURIAM:*

Edward Todd Jacobs, federal inmate # 19938-078, pleaded guilty to attempted arson and solicitation of murder for hire and was sentenced to concurrent 188-month terms of imprisonment. In 2017, Jacobs filed a 28 U.S.C. § 2255 motion challenging the imposed sentences as violating his plea agreement, which was dismissed as time barred. Two years later, he moved

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 22-40514

to reopen his § 2255 proceedings, which the district court construed as a Federal Rule of Civil Procedure 60(b) motion and denied. Jacobs then filed the instant motion to reconsider, in which he attacked his sentence on essentially the same grounds and again asked the district court to modify the judgment to comport with the plea agreement. The district court denied relief on the merits, and Jacobs has applied for a certificate of appealability (COA) to appeal that ruling.

The district court's consideration of Jacobs's motion to reconsider on its merits was error because that motion was in effect a successive § 2255 motion, and Jacobs had not obtained authorization to proceed from this court. *See Gonzalez v. Crosby*, 545 U.S. 524, 532 & n.4 (2005); 28 U.S.C. § 2244(b)(3)(A). The district court thus had no jurisdiction to grant or deny relief. *See Davis v. Sumlin*, 999 F.3d 278, 279 (5th Cir. 2021). Accordingly, the district court's order denying Jacobs's motion to reconsider is VACATED, and the matter is REMANDED with instructions to dismiss the motion for lack of jurisdiction. *See Davis*, 999 F.3d at 280. Jacobs's COA application is DENIED AS MOOT.