

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with
Fed. R. App. P. 32.1

United States Court of Appeals

**For the Seventh Circuit
Chicago, Illinois 60604**

Submitted April 3, 2007

Decided May 7, 2007

Before

Hon. RICHARD A. POSNER, *Circuit Judge*

Hon. MICHAEL S. KANNE, *Circuit Judge*

Hon. DIANE P. WOOD, *Circuit Judge*

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

No. 06-2991 v.

EARNEST PARKER-BEY,
Defendant-Appellant.

] Appeal from the United
] States District Court for
] the Eastern District of
] Wisconsin.

] No. 92 CR 178

] Rudolph T. Randa,
] *Chief Judge.*

O R D E R

After the petitioner's conviction for a federal drug offense was affirmed by this court in 1994, he filed a motion in the district court under 28 U.S.C. § 2255 to vacate his sentence on the ground that his conviction had violated the double-jeopardy clause of the Fifth Amendment. The motion was denied and we affirmed the denial in an order entered on April 3, 1997. He later filed an untimely motion in the district court under Fed. R. Civ. P. 60(b) to vacate his conviction; again he argued double jeopardy. The district judge quite rightly denied the motion as belated and in any event without merit, as the lack of merit of his double-jeopardy claim had been decided in the direct appeal from his conviction. The denial of the section 2255 motion is therefore

AFFIRMED.