
No. 95-4043

United States of America,

Appellee,

v.

Steven J. Samples,

Appellant.

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* Appeal from the United States
* District Court for the
* Western District of Arkansas.

* [UNPUBLISHED]
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Submitted: November 8, 1996

Filed: November 15, 1996

Before BEAM, HANSEN, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Steven J. Samples appeals the district court's¹ denial of his 28 U.S.C. § 2255 motion. Samples's double jeopardy claims are foreclosed for the reasons set forth in United States v. Ursery, 116 S. Ct. 2135, 2148-49 (1996) (holding civil forfeitures under 21 U.S.C. § 881(a)(6) and (7) are neither "punishment" nor criminal for purposes of Double Jeopardy Clause), and United States v. One 1970 36.9' Columbia Sailing Boat, 91 F.3d 1053, 1056 (8th Cir. 1996) (holding Ursery applies to forfeitures under § 881(a)(4)). Likewise, Samples's ineffective-assistance claim based on his counsel's failure to advise him of a possible double jeopardy defense is foreclosed. Cf. Thomas v. United States, 951 F.2d 902,

The Honorable H. Franklin Waters, Chief Judge, United States District Court for the Western District of Arkansas, adopting the report and recommendation of the Honorable Beverly R. Stites, United States Magistrate Judge for the Western District of Arkansas.

904 (8th Cir. 1991) (per curiam) (counsel not ineffective for failing to raise meritless issues). The district court properly declined to address the sentencing issues Samples raises in his supplemental brief. Samples did not demonstrate cause and prejudice forgiving his failure to raise the issues on direct appeal. See Reid v. United States, 976 F.2d 446, 448 (8th Cir. 1992), cert. denied, 507 U.S. 945 (1993).

Accordingly, after carefully reviewing the record, we conclude the district court correctly dismissed Samples's petition.

We deny Samples's request for appointment of counsel on appeal.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.