United States Court of Appeals
Fifth Circuit
F I L E D
June 21, 2006
Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-10476
Conference Calendar

NATHANIEL HOWARD THOMAS,

Petitioner-Appellant,

versus

COLE JETER, Warden, Federal Medical Center Fort Worth,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:04-CV-880

Before STEWART, DENNIS, and OWEN, Circuit Judges.

PER CURIAM:*

Nathaniel Howard Thomas, federal prisoner # 07052-078, appeals the dismissal of his 28 U.S.C. § 2241 petition, in which he alleged ineffective assistance of counsel and that the Government had failed to disclose exculpatory evidence. Thomas argues that the district court erred in dismissing his petition. This court reviews issues of law de novo. Jeffers v. Chandler, 253 F.3d 827, 830 (5th Cir. 2001).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

A petition filed under § 2241 which attacks errors that occurred at trial or sentencing should be dismissed or construed as a motion under 28 U.S.C. § 2255. Id.; Pack v. Yusuff, 218 F.3d 448, 452 (5th Cir. 2000). Thomas's § 2241 petition challenged his conviction, rather than attacking the manner in which his sentence was being executed. Thomas has not shown that the remedy provided under § 2255 is inadequate or ineffective to test the legality of his detention. See Tolliver v. Dobre, 211 F.3d 876, 878 (5th Cir. 2000) (prior unsuccessful § 2255 motion or inability to meet successive-petition requirements does not render § 2255 "inadequate"). Further, the district court lacked jurisdiction to construe Thomas's petition as a successive motion under § 2255. See Hooker v. Sivley, 187 F.3d 680, 681-82 (5th Cir. 1999). The district court's judgment dismissing Thomas's petition is AFFIRMED.