

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-41061
Conference Calendar

REGINALD S. CARR,

Petitioner-Appellant,

versus

EARNEST V. CHANDLER, Warden; JOHN ASHCROFT,
ATTORNEY GENERAL,

Respondents-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:01-CV-549

June 19, 2002

Before HIGGINBOTHAM, DAVIS, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Reginald S. Carr (Carr), federal prisoner #23755-044, appeals the district court's dismissal of his 28 U.S.C. § 2241 petition for lack of jurisdiction. Carr argues that he is entitled to bring his claims that his indictment was defective and that his trial counsel was ineffective under the "savings clause" of 28 U.S.C. § 2255.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Carr has not shown that his remedy under 28 U.S.C. § 2255 would be inadequate or ineffective to test the legality of his detention. See Reyes-Reguena v. United States, 243 F.3d 893, 901 (5th Cir. 2001). Specifically, he has not shown that his claims are "based on a retroactively applicable Supreme Court decision which establishes that [he] may have been convicted of a nonexistent offense" and that the claims were "foreclosed by circuit law at the time when the claim[s] should have been raised in [his] trial, appeal, or first 28 U.S.C. § 2255 motion." Id. at 904. Therefore, the district court did not err in determining that Carr could not bring his claims under the savings clause of 28 U.S.C. § 2255.

AFFIRMED.