

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-30322
Summary Calendar

PAUL BROWN,

Plaintiff-Appellant,

versus

U.S. DISTRICT COURT, Western District of Louisiana,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 01-CV-1927

August 1, 2002

Before JOLLY, DAVIS, and PARKER, Circuit Judges.

PER CURIAM:*

Paul Brown ("Brown"), federal inmate #08514-035, appeals the district court's dismissal of his civil rights suit filed pursuant to Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971).

Brown's "petition for en banc hearing" is DENIED.

Brown argues that his conviction violates Apprendi v. New Jersey, 530 U.S. 466 (2000), and that the district court judge is

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

not entitled to absolute immunity because under Apprendi the court lacked jurisdiction to convict him.

Because Brown is challenging his conviction and is exclusively seeking to be released from prison, his claim is not cognizable in a Bivens action. See Preiser v. Rodriguez, 411 U.S. 475, 499-500 (1973); Spina v. Aaron, 821 F.2d 1126, 1127-28 (5th Cir. 1987). Accordingly, the district court did not err in dismissing his complaint.

Brown's appeal is without arguable merit and is dismissed as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.

APPEAL DISMISSED.