

October 21, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-10395  
Conference Calendar

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RONNY OSBIN CUMMINGS,

Petitioner-Appellant,

versus

L.E. FLEMING, Warden, Federal Medical Center-Fort Worth,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:03-CV-00270  
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Before KING, Chief Judge, and JOLLY and STEWART, Circuit Judges.

PER CURIAM:\*

Ronny Cummings, federal prisoner # 24611-034, convicted of carjacking, appeals the district court's dismissal of his 28 U.S.C. § 2241 petition for failing to satisfy the requirements of 28 U.S.C. § 2255's savings clause. Cummings argues that his sentence under 18 U.S.C. § 2119(2) violated the Supreme Court decision in Jones v. United States, 526 U.S. 227, 251-52 (1999), because his indictment failed to allege that serious bodily injury resulted during his offense. He states that he should be

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

allowed to file the claim in a 28 U.S.C. § 2241 petition because 28 U.S.C. § 2255 is ineffective to test the legality of his detention.

Cummings has not shown that he was convicted of an offense which is now nonexistent based upon a retroactively applicable Supreme Court decision. See Jeffers v. Chandler, 253 F.3d 827, 831 (5th Cir. 2001); Reyes-Requena v. United States, 243 F.3d 893, 904 (5th Cir. 2001). Jones has no effect on whether the facts of Cummings's case support his conviction for carjacking during which serious bodily injury resulted. See Wesson v. U.S. Penitentiary, Beaumont, TX, 305 F.3d 343, 348 (5th Cir. 2002), cert. denied, 123 S. Ct. 1374 (2003). Cummings has not met the requirements to file his claim in a 28 U.S.C. § 2241 petition.

AFFIRMED.