

April 21, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-11084
Conference Calendar

NATIVIDAD SILVA, JR.,

Petitioner-Appellant,

versus

K. J. WENDT, Warden, FCI Seagoville,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:02-CV-2265-H

Before JOLLY, JONES, and SMITH, Circuit Judges.

PER CURIAM:*

Natividad Silva, Jr., federal prisoner #23368-077, appeals from the district court's dismissal of his 28 U.S.C. § 2241 petition. Silva argues that the district court erred by holding that his 28 U.S.C. § 2241 petition was subject to dismissal because it did not warrant application of the "savings clause" set forth in 28 U.S.C. § 2255. Because Silva's claims fail to meet the requisite standard, the "savings clause" is not applicable to Silva's 28 U.S.C. § 2241 petition. See

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Reyes-Requena v. United States, 243 F.3d 893, 904 (5th Cir. 2001).

Accordingly, the district court's judgment is AFFIRMED. Silva's motion seeking an emergency preliminary injunction is DENIED.

AFFIRMED; MOTION DENIED.