

August 20, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-30198
Conference Calendar

RAYMOND CORNWELL,

Petitioner-Appellant,

versus

CARL CASTERLINE,

Respondent-Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 02-CV-2023

Before JONES, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Raymond Cornwell, Federal prisoner # 03181-052, has appealed the district court's judgment dismissing his application for a writ of habeas corpus challenging his 1990 conviction in the United States District Court for the Northern District of New York for conspiracy to manufacture and distribute methamphetamine. Cornwell contends that he should be permitted to proceed under 28 U.S.C. § 2241 under the Savings Clause of 28 U.S.C. § 2255 because he is innocent in light of Apprendi v. New Jersey, 530 U.S. 466 (2000). Cornwell's argument 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

foreclosed by Wesson v. United States Penitentiary Beaumont, TX, 305 F.3d 343, 347 (5th Cir. 2002), cert. denied, 123 S. Ct. 1374 (2003).

Because Cornwell's appeal is without arguable merit, it is DISMISSED AS FRIVOLOUS. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); see also 5TH CIR. R. 42.2. Cornwell's motion for appointment of counsel is DENIED.

APPEAL DISMISSED; MOTION DENIED.