

October 22, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-40442
Conference Calendar

DARYAL EDWARDS,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 5:02-CV-64

Before KING, Chief Judge, and JOLLY and STEWART, Circuit Judges.

PER CURIAM:*

Daryal Edwards ("Edwards"), federal inmate # 06949-078, appeals the district court's dismissal with prejudice of his 28 U.S.C. § 2241 petition challenging his conviction for possession of a firearm during a drug trafficking crime and traveling in interstate commerce to further unlawful activity. Edwards argues that his initial search and seizure was illegal and that the indictment in his case was "fatally flawed."

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Edwards also argues that the Attorney General and the Bureau of Prisons lack the authority to "constrain We the People."

Edwards has failed to identify a retroactively applicable Supreme Court decision which establishes that he may have been convicted of a nonexistent offense. His claims, therefore, do not satisfy the savings clause of 28 U.S.C. § 2255, and thus he is not entitled to utilize 28 U.S.C. § 2241. See Reyes-Requena v. United States, 243 F.3d 893 (5th Cir. 2001). This appeal is without arguable merit and is frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). It is therefore dismissed.

5TH CIR. R. 42.2.

APPEAL DISMISSED.