

October 21, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-40796  
Conference Calendar

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JOSE YEPES,

Petitioner-Appellant,

versus

R.D. MILES, Warden,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 1:03-CV-273  
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Before KING, Chief Judge, and JOLLY and STEWART, Circuit Judges.

PER CURIAM:\*

Jose Yepes, federal prisoner # 99485-012, appeals the district court's denial of his 28 U.S.C. § 2241 petition. Yepes is currently serving a life sentence for conspiracy to possess cocaine with intent to distribute. Yepes argues that the district court erred in denying his 28 U.S.C. § 2241 petition because he is innocent of his offense.

Yepes has not met his burden of showing that he meets the requirements for filing a 28 U.S.C. § 2241 petition under the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

"savings clause" of 28 U.S.C. § 2255. He has neither pointed to a retroactively applicable Supreme Court decision which establishes that he may have been imprisoned for conduct that was not prohibited by law nor shown how his claim was foreclosed by circuit law at the time of his guilty-plea conviction, appeal, or first 28 U.S.C. § 2255 motion. See Reyes-Requena v. United States, 243 F.3d 893, 904 (5th Cir. 2001). Accordingly, the judgment of the district court is AFFIRMED.