

June 21, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-30689
Conference Calendar

FREDDIE JONES, JR.,

Petitioner-Appellant,

versus

ROBERT TAPIA,

Respondent-Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:04-CV-657-FAL-JDK

Before STEWART, DENNIS, and OWEN, Circuit Judges.

PER CURIAM:*

Freddie Jones, Jr., federal prisoner # 16412-056, appeals the dismissal of his 28 U.S.C. § 2241 habeas petition challenging his sentence for conspiracy and possession with intent to distribute cocaine and cocaine base. Relying on Apprendi v. New Jersey, 530 U.S. 466 (2000), and its progeny, Jones argues that the sentence imposed by the trial court was illegal because the jury did not find drug type or quantity beyond a reasonable doubt. Insofar as Jones argues that he is entitled to proceed

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

under § 2241 based on the savings clause of 28 U.S.C. § 2255 because relief under the latter section is "inadequate or ineffective," such suggestion is unavailing. See Padilla v. United States, 416 F.3d 424, 426-27 (5th Cir. 2005); Wesson v. U.S. Penitentiary, Beaumont, TX, 305 F.3d 343, 347-48 (5th Cir. 2002).

Jones also argues that the gatekeeping requirements of § 2255 and 28 U.S.C. § 2244 are unconstitutional and impermissibly deny him his constitutional right to file a habeas petition. This argument is also unavailing. See Wesson, 305 F.3d at 346-47.

AFFIRMED.