

FILED

August 18, 2004

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 04-40069
Conference Calendar

OSSIE ROBERT TRADER,

Petitioner-Appellant,

versus

UNITED STATES SENTENCING COMMISSION,

Respondent-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:03-CV-1411

Before HIGGINBOTHAM, DAVIS, and PICKERING, Circuit Judges.

PER CURIAM:*

Ossie Robert Trader, prisoner number 32019-066, was convicted of one charge of aiding and abetting robbery and one charge of using and carrying a firearm during a crime of violence. He was sentenced to serve 248 months in prison and a five-year term of supervised release. Trader filed a purported 28 U.S.C. § 2241 petition to challenge this sentence. The district court determined that Trader's purported 28 U.S.C. § 2241 petition was best construed as a 28 U.S.C. § 2255 motion

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

and dismissed it. Trader now appeals that dismissal. He argues that his sentence should be vacated because it was imposed in violation of the Ex Post Facto Clause.

The district court's findings of fact are reviewed for clear error, and issues of law are reviewed de novo. Jeffers v. Chandler, 253 F.3d 827, 830 (5th Cir. 2001). Trader has not shown that the district court erred in construing his pleading as a 28 U.S.C. § 2255 motion that should be dismissed for want of jurisdiction. See Tolliver v. Dobre, 211 F.3d 876, 877-78 (5th Cir. 2000); Cox v. Warden, Fed. Detention Ctr., 911 F.2d 1111, 1113 (5th Cir. 1990); Solsona v. Warden, 821 F.2d 1129, 1132 (5th Cir. 1987). The judgment of the district court is AFFIRMED.