

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11351
Conference Calendar

FRANCISCO ROSA GONZALEZ,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:97-CV-2969-D

October 19, 1999

Before JONES, SMITH, and STEWART, Circuit Judges.

PER CURIAM:*

Francisco Rosa Gonzalez, federal prisoner no. 21059-077, has appealed the district court's dismissal of his 28 U.S.C. § 2241 petition. Gonzalez is currently serving concurrent state and federal sentences. He contends that he is entitled to a credit on his federal sentence for time served on his state sentence prior to his sentencing on the federal charges. As Gonzalez does not dispute that he has received credit on his state sentence for the period in question, he is not entitled to credit on his

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

federal sentence for this period. See 18 U.S.C. § 3585(b); United States v. Flores, 616 F.2d 840, 841 (5th Cir. 1980).

As Gonzalez has failed to raise an issue of arguable merit in his appeal, it is frivolous. We therefore dismiss the appeal. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. Rule 42.2. Gonzalez is warned that future frivolous appeals may result in the imposition of sanctions.

APPEAL DISMISSED; SANCTION WARNING ISSUED.