

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-41247
Conference Calendar

JERRY T. PARDUE,

Petitioner-Appellant,

versus

N. L. CONNER, Warden,

Respondent-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 5:99-CV-115

August 24, 2000

Before KING, Chief Judge, and POLITZ and WIENER, Circuit Judges.

PER CURIAM:*

Jerry T. Pardue, federal prisoner #06225-112, appeals the district court's dismissal of his 28 U.S.C. § 2241 petition for writ of habeas corpus. Pardue argues that the district court erred in dismissing his § 2241 petition because he is actually innocent, he was denied Due Process, and his prior § 2255 motion was denied in the Seventh Circuit.

Pardue's § 2241 petition attacks alleged errors at trial. Accordingly, his petition should have been brought as a § 2255 motion to vacate, set aside, or correct sentence. See Tolliver

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

v. Dobre, 211 F.3d 876, 877-78 (5th Cir. 2000). To the extent that a certificate of appealability (COA) is required, COA is denied. See § 2253(c)(2). Pardue required permission from the Seventh Circuit before he could file a successive § 2255 motion, and he has not obtained any such permission. See §§ 2244, 2255. In addition, even if Pardue had permission to file a successive § 2255 motion, Pardue could file it only in Illinois, and it was improperly filed in Texas. See § 2255. Accordingly, the district court properly dismissed Pardue's petition. Pardue's appeal is frivolous because it lacks any arguable basis in law or fact, and it is dismissed as such. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2. All outstanding motions are denied.

APPEAL DISMISSED AS FRIVOLOUS; COA DENIED; ALL OUTSTANDING MOTIONS DENIED.