

**FILED**

February 23, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-41224  
Conference Calendar

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RUSSELL MARKS,

Petitioner-Appellant,

versus

CONSTANCE REESE, Warden

Respondent-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 1:04-CV-355  
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Before GARZA, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:\*

Russell Marks ("Marks"), federal prisoner # 06550-045, appeals the district court's dismissal of his 28 U.S.C. § 2241 petition in which he challenged his convictions and sentences for conspiracy to distribute cocaine and conspiracy to launder monetary instruments. Marks argues that his guilty plea was involuntary because the trial court did not advise him that he faced a mandatory sentence of life imprisonment. He contends that he should be allowed to proceed under 28 U.S.C. § 2241

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

because "he has not had an unobstructed shot at getting his conviction or sentence vacated." Marks cites to Dretke v. Haley, 541 U.S. 386 (2004) and United States v. White, 371 F. Supp. 2d 378 (W.D.N.Y. 2005) in support of his argument.

Marks has not shown that his claim meets the requirements of 28 U.S.C. § 2255's "savings clause." He has not shown that his claim is based on a retroactively applicable Supreme Court decision which establishes that he may have been convicted of a nonexistent offense and that such claim was foreclosed by circuit law at the time when the claim should have been raised in his trial, appeal, or first 28 U.S.C. § 2255 motion. See Reyes-Reguena v. United States, 243 F.3d 893, 904 (5th Cir. 2001). Therefore, the district court's dismissal of Marks's 28 U.S.C. § 2241 petition is AFFIRMED.