

FILED

February 23, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-50272
Conference Calendar

JOSE RICARDO RUIZ,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:04-CV-1074

Before GARZA, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Jose Ricardo Ruiz, federal prisoner # 12399-080, appeals the district court's dismissal of his 28 U.S.C. § 2241 petition challenging his guilty-plea conviction for escape from the custody of a federal prison camp. See 18 U.S.C. § 751(a); United States v. Ruiz, 180 F.3d 675, 676 (5th Cir. 1999). He argues that he is entitled to pursue habeas relief under the "savings clause" of 28 U.S.C. § 2255. Ruiz has not made the requisite showing to qualify for the "savings clause" of § 2255. 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

challenge to the sentencing court's application of the Guidelines is not based on a retroactively applicable Supreme Court decision which establishes that the offense no longer qualifies as a violation of law. See Reyes-Requena v. United States, 243 F.3d 893, 904 (5th Cir. 2001). Accordingly, the district court's dismissal of his § 2241 petition is affirmed.

Ruiz's motion for appointment of counsel is denied.

AFFIRMED; MOTION DENIED.