

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-41487
Summary Calendar

WILLIAM M. BOYCE,

Petitioner-Appellant,

versus

ERNEST V. CHANDLER, Warden,

Respondent-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:01-CV-630

October 22, 2002

Before DAVIS, DUHÉ, and DeMOSS, Circuit Judges.

PER CURIAM:¹

William M. Boyce, federal prisoner #03336-088, appeals from the denial of his 28 U.S.C. § 2241 petition. Boyce argues that 28 U.S.C. § 2255 was inadequate to test the legality of his incarceration, allowing him to pursue 28 U.S.C. § 2241 relief, because *Apprendi v. New Jersey*, 530 U.S. 466 (2000), was decided after his conviction became final and after he filed his 28 U.S.C. § 2255 motion.

¹ 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

Apprendi does not apply retroactively to cases on collateral review. *Wesson v. U.S. Penitentiary*, ___ F.3d ___ (5th Cir. Sep. 5, 2002), 2002 WL 31006173, *3. Boyce cannot make a showing sufficient to invoke the "savings clause" of 28 U.S.C. § 2255 to pursue 28 U.S.C. § 2241 relief. *Id.*

AFFIRMED.