

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-41494
Summary Calendar

ENRIQUE RAMIREZ, JR.,

Petitioner-Appellant,

versus

ERNEST V. CHANDLER, Warden,

Respondent-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
(1:01-CV-541)

May 1, 2002

Before HIGGINBOTHAM, WIENER, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Petitioner-Appellant Enrique Ramirez, Jr., federal prisoner # 53450-146, contends that the Parole Commission's (the Commission) execution of his sentence violates his constitutional rights because he was illegally charged in five different indictments for drug transactions that were part of a single drug conspiracy. He also contends that he illegally received consecutive sentences for one offense.

Although Ramirez insists that he is challenging the manner in which his sentence is being executed, he is actually seeking to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

have his convictions vacated based on the preparation of allegedly constitutionally defective indictments and prosecutorial misconduct. As Ramirez is clearly challenging the validity of his conviction, the proper procedural vehicle for pursuing his claims is 28 U.S.C. § 2255. As Ramirez acknowledges, however, he has unsuccessfully filed a § 2255 motion before, and he has also been denied authorization to file such a motion successively.

Even though a remedy under § 2255 appears to be unavailable to Ramirez at this time, he still has failed to demonstrate that his § 2255 remedy was ineffective or inadequate when it was available. See Reyes-Requena v. United States, 243 F.3d 893, 904 (5th Cir. 2001). Thus, he is not entitled to pursue relief pursuant to 28 U.S.C. § 2241 either. See Pack v. Yusuff, 218 F.3d 448, 452 (5th Cir. 2000); Reyes-Requena, 243 F.3d at 901-02.

AFFIRMED.