

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-11038
Conference Calendar

LOUIS CHARLES SHEPTIN,

Petitioner-Appellant,

versus

UNITED STATES PAROLE COMMISSION,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:02-CV-650-A

February 19, 2003

Before WIENER, EMILIO M. GARZA, and CLEMENT, Circuit Judges.

PER CURIAM:*

Louis Charles Sheptin, federal inmate # 90355-024, appeals the dismissal of his petition for habeas relief, filed pursuant to 28 U.S.C. § 2241, for failure to exhaust his administrative remedies. Sheptin alleged constitutional violations associated with a revocation hearing which was continued. Because the hearing was continued, the district court did not have before it the Article III case or controversy requisite to its

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

jurisdiction. Cinel v. Connick, 15 F.3d 1338, 1341 (5th Cir. 1994).

The allegations Sheptin makes on appeal about the September 2002 revocation hearing, solitary confinement, and access to the law library were not before the district court. Therefore, this court need not consider them. See Leverette v. Louisville Ladder Co., 183 F.3d 339, 342 (5th Cir. 1999) (this court will not consider a new theory of relief raised for the first time on appeal).

We hereby modify the district court's judgment insofar as it dismisses with prejudice Sheptin's claims for failure to exhaust his administrative remedies to dismiss those claims for lack of subject matter jurisdiction. The district court's judgment is affirmed as modified. The motions for release pending appeal and appointment of counsel are hereby DENIED.

AFFIRMED AS MODIFIED