

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-40519  
Conference Calendar

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DANIEL IFY IWEGBU,

Petitioner-Appellant,

versus

JONATHON DOBRE, Warden,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 1:02-CV-95  
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October 30, 2002

Before DeMOSS, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:\*

Daniel Ify Iwegbu, federal prisoner #22600-077, has appealed the district court's judgment dismissing his petition for a writ of habeas corpus under 28 U.S.C. § 2241. Iwegbu contends that the district court erred in finding that he did not meet the actual innocence prong of the test set forth in Reyes-Requena v. United States, 243 F.3d 893, 904 (5th Cir. 2001). He maintains

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

that, under the "savings clause" of 28 U.S.C. § 2255, he should be permitted to pursue relief under 28 U.S.C. § 2241.

Iwegbu has failed to establish that he was convicted of a non-existent offense. He has thus failed to meet the first prong of the two-prong test set forth in Reyes-Reguena. See 243 F.3d at 904. This appeal is without arguable merit and is DISMISSED as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.

Iwegbu is cautioned that should he, or any counsel on his behalf, file any further frivolous pleadings relating to his heroin conspiracy conviction, in this court or any court subject to the jurisdiction of this court, he shall be subject to sanctions. To avoid sanctions for any matter that may be pending, Iwegbu shall review all pending matters and move to voluntarily dismiss any that are frivolous.

APPEAL DISMISSED. SANCTION WARNING ISSUED.