

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-60217
Conference Calendar

GARY WALDEN,

Petitioner-Appellant,

versus

K. Z. YUSUFF, Warden,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 5:02-CV-74-RG

February 19, 2003

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

PER CURIAM:*

Gary Walden, federal prisoner # 06455-004, appeals from the district court's dismissal of his petition for habeas corpus relief under 28 U.S.C. § 2241. The district court construed Walden's petition, which challenged the validity of his 1992 cocaine conspiracy convictions, as a motion under 28 U.S.C. § 2255 and dismissed the motion for lack of jurisdiction.

Walden has not challenged in this court the district court's reasons for dismissing his complaint. Accordingly, it is as if

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Walden had not appealed the judgment. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987).

Walden's appeal is without arguable merit and is frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5TH CIR. R. 42.2.

APPEAL DISMISSED AS FRIVOLOUS.