

February 17, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-40696
Conference Calendar

PAUL CHRISTOPHER DAVIS,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:03-CV-214

Before HIGGINBOTHAM, EMILIO M. GARZA, and PRADO, Circuit Judges.

PER CURIAM:*

Paul Christopher Davis, prisoner number 15273-057, was convicted of one charge of possession of approximately 815 grams of crack cocaine with intent to distribute and was sentenced to 330 months in prison. Davis filed a purported 28 U.S.C. § 2241 petition to challenge this sentence. The district court determined that Davis's purported 28 U.S.C. § 2241 petition was best classed as a 28 U.S.C. § 2255 motion and dismissed it. Davis now appeals that dismissal. Given the benefit of liberal

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

construction, his argument to this court may fairly be construed as alleging that he is entitled to bring a 28 U.S.C. § 2241 petition under the savings clause of 28 U.S.C. § 2255 because he is actually innocent of his sentence.

In reviewing the denial of habeas relief, the district court's findings of fact are reviewed for clear error and issues of law are reviewed de novo. Jeffers v. Chandler, 253 F.3d 827, 830 (5th Cir. 2001). Davis has not shown that the district court erred in construing his pleading as an unauthorized 28 U.S.C. § 2255 motion that should be dismissed. Accordingly, the judgment of the district court is AFFIRMED.