

April 21, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-41663
Conference Calendar

CHARLES RAY BURTON,

Petitioner-Appellant,

versus

R. CHILDRESS, Warden,

Respondent-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:03-CV-1381

Before JOLLY, JONES, and SMITH, Circuit Judges.

PER CURIAM:*

Charles Ray Burton, federal prisoner # 09147-035, appeals from the district court's dismissal of his 28 U.S.C. § 2241 petition. Burton was convicted in 1996 in the Western District of Texas of possession with intent to distribute cocaine base and cocaine and was sentenced to 360 months' imprisonment. He was later resentenced to 211 months' imprisonment.

The district court dismissed his 28 U.S.C. § 2241 petition, determining that Burton had not satisfied the criteria set forth

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

in Reyes-Requena v. United States, 243 F.3d 893, 904 (5th Cir. 2001), to support his claims under the savings clause of 28 U.S.C. § 2255. Burton's brief does not address the district court's conclusion that he did not meet the criteria for raising his claims in this 28 U.S.C. § 2241 petition pursuant to the savings clause of 28 U.S.C. § 2255. Thus, he has abandoned the only issue on appeal by failing to brief it. Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987). This appeal is without arguable merit and, therefore, it is DISMISSED as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2. We warn Burton that the filing of frivolous pleadings in the future could subject him to sanctions.

APPEAL DISMISSED; SANCTION WARNING ISSUED.