

September 20, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-10503
Summary Calendar

EDWARD MORRIS HARRIS,

Petitioner-Appellant,

versus

K.J. WENDT, Warden, Seagoville
Federal Detention Center,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:04-CV-582-R

Before DAVIS, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:*

Edward Morris Harris, federal prisoner # 31832-086, appeals the district court's order denying his 28 U.S.C. § 2241 habeas petition seeking his release from incarceration based on the district court's finding that he acted in contempt of the district court's order. Harris argues that the district court erred in failing to consider his objections to the magistrate judge's report and recommendation and in determining that it had jurisdiction to hold him in contempt of court.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Assuming that the district court did not review the objections to the magistrate judge's recommendation, the failure to do so was not reversible error because Harris is making legal arguments or arguments that were addressed in prior proceedings he filed challenging his incarceration for contempt. Thus, the district court's independent and de novo review of the petition was not reversible error. See Smith v. Collins, 964 F.2d 483, 485 (5th Cir. 1992).

Insofar as Harris argues that the district court lacked jurisdiction to issue the order of contempt, this argument was rejected by this court in Harris' prior habeas action challenging his incarceration for contempt. See SEC v. Resource Development. Int'l L.L.C., No. 02-11397 (5th Cir. Dec. 23, 2003). Harris has failed to show that he is unable to comply with the district court's order to disclose the assets of Jade Asset Management to the receiver. He has simply refused to do so. Thus, the district court did not abuse its discretion in refusing to release Harris from incarceration based on the contempt order. See Int'l Union, United Mine Workers of America v. Bagwell, 512 U.S. 821, 828 (1994). The judgment of the district court denying the habeas petition is AFFIRMED.

Harris' motion for an expedited appeal is DENIED as moot.