

August 30, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-60232
Summary Calendar

LAWRENCE LA SPINA,

Plaintiff-Appellant,

versus

MIKE PETTIFORD, Warden,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 5:03-CV-500RGU

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

PER CURIAM:*

Lawrence La Spina, prisoner number 82781-054, was convicted of conspiracy to commit wire fraud, conspiracy to commit tax fraud, obstruction of justice, and failure to surrender. The district court sentenced him to serve 82 months in prison and a four-year term of supervised release. La Spina filed a purported 28 U.S.C. § 2241 petition to challenge these convictions. The district court determined that La Spina's purported 28 U.S.C. § 2241 petition was best classed as a 28 U.S.C. § 2255 motion and

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

dismissed it. La Spina now appeals that dismissal. La Spina also requests that his appeal be expeditiously considered. That request is DENIED. La Spina's motion to correct procedural error, which relates to this court's prior denial of his petition for a writ of mandamus, is likewise DENIED.

La Spina argues that the district court was without jurisdiction to construe his purported 28 U.S.C. § 2241 petition as a 28 U.S.C. § 2255 motion. He also contends that the district court erred in dismissing his purported 28 U.S.C. § 2241 petition. La Spina's arguments center primarily on the use of capital letters in various court documents, whether the district court is an Article III court, and whether his rights were violated when he received a "jury trial," rather than a "trial by jury."

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). La Spina has not shown that the district court erred in construing his pleading as a 28 U.S.C. § 2255 motion that should be dismissed or that the district court was without power to take this action. See Tolliver v. Dobre, 211 F.3d 876, 877-78 (5th Cir. 2000); Cox v. Warden, Fed. Detention Ctr., 911 F.2d 1111, 1113 (5th Cir. 1990); Solsona v. Warden, 821 F.2d 1129, 1132 (5th Cir. 1987). Accordingly, the judgment of the district court is AFFIRMED.

The arguments presented in La Spina's filings with this court are wholly lacking in merit. La Spina is WARNED that future attempts to relitigate these arguments could result in sanctions. See Coughlan v. Starkey, 852 F.2d 806, 817 (5th Cir. 1988); Ferguson v. MBank Houston, N.A., 808 F.2d 358, 359 (5th Cir. 1986).

JUDGMENT OF DISTRICT COURT AFFIRMED; ALL OUTSTANDING MOTIONS DENIED; SANCTIONS WARNING ISSUED.