

February 13, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-30292
Conference Calendar

BILLY LAMPTON,

Petitioner-Appellant,

versus

FREDRICK MENIFEE, Warden,

Respondent-Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 1:05-CV-1623

Before BARKSDALE, GARZA, and CLEMENT, Circuit Judges.

PER CURIAM:*

Billy Lampton, federal prisoner # 25078-034, appeals the district court's denial of his 28 U.S.C. § 2241 petition challenging his conviction for engaging in a continuing criminal enterprise. Lampton argues that he is actually innocent of engaging in a continuing criminal enterprise under this court's decision in United States v. Bass, 310 F.3d 321 (5th Cir. 2002). He maintains that he may bring his claim in a § 2241 petition under the savings clause of 28 U.S.C. § 2255 because Bass

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

resolved a question of first impression in this court, demonstrating that his claim was foreclosed prior to Bass.

We review the district court's findings of fact for clear error and its conclusions of law de novo. See Christopher v. Miles, 342 F.3d 378, 381 (5th Cir. 2003). Lampton's claim relies upon our decision in Bass, and Lampton does not cite to any new Supreme Court cases in support of his claim. As he has not shown that his claim is based upon a retroactively applicable Supreme Court decision that decriminalized the conduct for which he was convicted, Lampton has not made the required showing to challenge his conviction in a § 2241 petition. See id. at 382.

AFFIRMED.