

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

June 19, 2008

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No. 07-30787  
Conference Calendar

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Charles R. Fulbruge III  
Clerk

LARRY V DEVORE

Petitioner-Appellant

v.

FREDRICK MENIFEE

Respondent-Appellee

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 1:07-CV-1002

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Before JONES, Chief Judge, and JOLLY and DENNIS, Circuit Judges.

PER CURIAM:\*

Larry V. Devore, federal prisoner # 11147-014, appeals the judgment dismissing for lack of jurisdiction his 28 U.S.C. § 2241 petition, wherein he sought to challenge the 235-month sentence imposed following his conviction of being a felon in possession of a firearm. He argues that the district court improperly applied the armed career criminal enhancement at sentencing and that a 28 U.S.C. § 2255 motion is inadequate and ineffective to test the legality of his detention.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Section 2255 provides the primary means of collaterally attacking a federal sentence based on errors that occurred at or prior to sentencing. *Cox v. Warden*, 911 F.2d 1111, 1113 (5th Cir. 1990). A § 2241 petition attacking the imposition of a federally imposed sentence may be considered only where the petitioner establishes that § 2255 is “inadequate or ineffective to test the legality of his detention.” *Id.* (internal quotation and citations omitted). Devore bears the burden of showing that a § 2255 motion is an inadequate vehicle in which to bring his claims into federal court. See *McGhee v. Hanberry*, 604 F.2d 9, 10 (5th Cir. 1979). Devore’s contention is based on sentencing, and he therefore has not made the requisite showing that he was convicted of a nonexistent offense. See *Reyes-Requena v. United States*, 243 F.3d 893, 904 (5th Cir. 2001); *Kinder v. Purdy*, 222 F.3d 209, 213-24 (5th Cir. 2000). Accordingly, the district court’s dismissal of Devore’s § 2241 petition is AFFIRMED.