

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

October 30, 2009

Charles R. Fulbruge III
Clerk

No. 09-60062
Summary Calendar

FREDERICK HAMILTON BANKS

Petitioner-Appellant

v.

BRUCE PEARSON, Warden

Respondent-Appellee

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 5:08-CV-339

Before JONES, Chief Judge, and WIENER and PRADO, Circuit Judges.

PER CURIAM:*

Frederick Banks, federal prisoner # 05711-068, was convicted of mail fraud and was sentenced to serve 63 months in prison. Banks filed the instant 28 U.S.C. § 2241 petition to challenge an alleged delay in the disposition of his direct criminal appeal. The district court interpreted his petition as seeking both § 2241 relief and mandamus relief and denied it. Banks now appeals that decision.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Banks asserts that his § 2241 petition was filed to challenge both a delay in his sentencing and a delay in the disposition of his appeal. We decline to consider Banks's claim concerning an alleged delay in his sentencing proceedings because it was not presented to the district court. *See Johnson v. Puckett*, 930 F.2d 445, 448 (5th Cir. 1991).

Banks argues that his § 2241 petition was the proper vehicle to raise his claims concerning the alleged delay in disposition of his direct criminal appeal and that a motion to vacate sentence under 28 U.S.C. § 2255 is inadequate to raise these claims. "In an appeal from the denial of habeas relief, this court reviews a district court's findings of fact for clear error and issues of law de novo." *Jeffers v. Chandler*, 253 F.3d 827, 830 (5th Cir. 2001). Banks has shown no error in connection with the district court's determination that he was not entitled to § 2241 relief or a writ of mandamus.

The judgment of the district court is AFFIRMED.