

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

United States Court of Appeals  
Fifth Circuit

**FILED**

June 17, 2013

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 12-40647

Summary Calendar  
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STERLING J. MCKOY, II,

Petitioner-Appellant

v.

JOHN B. FOX,

Respondent-Appellee

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 1:11-CV-506  
\_\_\_\_\_

Before WIENER, ELROD, and GRAVES, Circuit Judges.

PER CURIAM:\*

Sterling J. McKoy, II, federal prisoner # 19319-047, appeals from the order of the district court dismissing his 28 U.S.C. § 2241 habeas corpus action. He challenges a prison disciplinary hearing at which he was found guilty of possession of anything unauthorized and unauthorized use of the mail.

On appeal, McKoy argues that the district court should have construed his § 2241 petition as a prisoner civil rights action pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), or

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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as a challenge under the Administrative Procedure Act (APA) once it determined that McKoy had failed to make a cognizable habeas corpus claim. McKoy did not raise his *Bivens* contention in the district court, so we will not consider it, see *Wilson v. Roy*, 643 F.3d 433, 435 n.1 (5th Cir. 2011), *cert. denied*, 132 S. Ct. 1062 (2012), and his APA contentions, though raised in the district court, are unavailing on the merits, see *Evans v. Martin*, 496 F. App'x 442, 444-45 & n.1 (5th Cir. 2012).

AFFIRMED.