IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 17-50353
Summary Calendar

JOHN O. SINCLAIR,

Petitioner - Appellant

v.

J. SCOTT WILLIS, Warden,

Respondent - Appellee

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:17-CV-58

Before WIENER, DENNIS, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

John O. Sinclair, federal prisoner # 21082-056, appeals the district court's determination that his challenge to his federal sentence is not cognizable under 28 U.S.C. § 2241. Sinclair challenges the career offender enhancement on the basis that he is actually innocent of one of the predicate offenses. He argues that Section 2241 is available to him because his claim "would be meritorious if it could be reviewed under 28 U.S.C. § 2255" and

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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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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review is unavailable under that statute. Therefore, his incarceration as a career offender creates a miscarriage of justice and that he is entitled to relief under Section 2241 because of his actual innocence of the predicate offense.

We review the dismissal of Sinclair's petition *de novo*. *See Pack v. Yusuff*, 218 F.3d 448, 451 (5th Cir. 2000). Because he did not rely on a retroactively applicable Supreme Court decision indicating that he may have been convicted for a nonexistent offense, Sinclair did not show that Section 2255 was an inadequate or ineffective remedy, and the district court did not err in dismissing the petition. *See Reyes-Requena v. United States*, 243 F.3d 893, 904 (5th Cir. 2001); *Pack*, 218 F.3d at 451.

The judgment of the district court is AFFIRMED. The motion for appointment of counsel is DENIED.