

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

No. 17-51130
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
November 19, 2018

ARTUR TCHIBASSA,

Lyle W. Cayce
Clerk

Petitioner-Appellant

v.

WARDEN SCOTT WILLIS,

Respondent-Appellee

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:17-CV-272

Before JOLLY, COSTA, and HO, Circuit Judges.

PER CURIAM:*

Artur Tchibassa, federal prisoner # 25340, was convicted of hostage taking and conspiring to do the same and was sentenced to serve 293 months in prison and a five-year term of supervised release. He appeals the district court's denial of his 28 U.S.C. § 2241 habeas corpus petition and the ensuing Federal Rule of Civil Procedure 59(e) motion, arguing that these judgments are erroneous because the district court applied this court's caselaw concerning the

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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savings clause of 28 U.S.C. § 2255(e) and rejected his argument that he should be permitted to bring a claim concerning actual innocence in a § 2241 petition.

As the district court noted, this court has held that actual innocence factors into the § 2255(e) analysis only insofar as one may avail himself of the savings clause if he relies upon a retroactively applicable Supreme Court case showing that he was convicted of a nonexistent offense. *See Reyes-Requena v. United States*, 243 F.3d 893, 904 (5th Cir. 2001). Tchibassa has shown no error in connection with the district court's reliance on this jurisprudence to reject his claim that he should be permitted to raise an actual innocence claim in a § 2241 proceedings and to deny his Rule 59(e) motion.

AFFIRMED.