

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-5609
Conference Calendar

FRANK R. MONTALVO,

Plaintiff-Appellant,

versus

UNITED STATES PAROLE COMMISSION,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-90-CV-1346
- - - - -

March 17, 1993

Before KING, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:*

Frank R. Montalvo argues that the district court erred when it denied § 2241 relief and granted the United States Parole Commission's motion to dismiss, contending that the Commission lacked jurisdiction to revoke his special parole term. His contention is incorrect.

Montalvo requests that this Court overrule its decision in Battle v. United States Parole Comm'n, 834 F.2d 419, 420 (5th Cir. 1987), which held that the Parole Commission has concurrent jurisdiction to revoke terms of special parole. Montalvo

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

essentially argues that the Parole Commission created jurisdiction in itself when it enacted 28 C.F.R. § 2.57(c), which provides for revocation of a special parole term where a parolee has violated conditions of release. However, Montalvo ignores subsequent decisions by this Court that reject that argument and hold that such jurisdiction derives from 21 U.S.C. § 841(c). See Cortinas v. United States Parole Comm'n, 938 F.2d 43, 46 (5th Cir. 1991); Munquia v. United States Parole Comm'n, 871 F.2d 517, 520 (5th Cir.), cert. denied, 493 U.S. 856 (1989).

Montalvo also relies, in part, on "conflicting" law in other circuits. However, the case law cited by Montalvo merely discusses the jurisdiction of the district courts to revoke supervised release and terms of special parole and thus do not reject the idea that the Parole Commission has concurrent jurisdiction over such matters.

Accordingly, the decision of the district court is
AFFIRMED.