

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-40641  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FRANCISCO C. LOPEZ,  
a/k/a Francisco Lopez-Casanova,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. L-93-CR-152-1  
- - - - -  
February 21, 1997

Before SMITH, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:\*

Francisco Lopez, federal prisoner # 63537-079, filed a motion under 28 U.S.C. § 2241 to vacate his conviction. The district court denied that motion and Lopez now seeks leave to proceed in forma pauperis (IFP) on appeal. To succeed, Lopez must show that he is a pauper and that he will present a non-frivolous issue on appeal. Carson v. Polley, 689 F.2d 562, 586 (5th Cir. 1982).

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

Lopez argues that the district court lacked jurisdiction to convict him because 21 U.S.C. § 841 is unconstitutional and because he was not on federal property or territory at the time he committed the crime. This court has determined that § 841 is a valid exercise of Congress's commerce power and that a conviction under this section does not require proof of specific nexus with interstate commerce. United States v. Owens, 996 F.2d 59, 61 (5th Cir. 1993). Lopez has failed to present a nonfrivolous issue on appeal

IFP DENIED. APPEAL DISMISSED.