

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40854
Conference Calendar

DAVID PARDUE,

Petitioner-Appellant,

versus

N.L. CONNER, Warden, Federal
Correctional Institution, Texarkana,

Respondent-Appellee.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 5:98-CV-153
- - - - -

April 16, 1999

Before JONES, SMITH, and DUHÉ, Circuit Judges.

PER CURIAM:*

David Pardue, federal prisoner #04062-010, appeals the dismissal without prejudice of his habeas corpus petition for lack of jurisdiction. Pardue filed his petition under 28 U.S.C. § 2241. However, Pardue is challenging the legality of his conviction and sentence, rather than the execution of his sentence. The district court properly construed Pardue's petition as a motion to vacate, set aside, or correct sentence

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

under § 2255. Solsona v. Warden, F.C.I., 821 F.2d 1129, 1131-32 (5th Cir. 1987).

Pardue filed his § 2255 motion in the district court for the Eastern District of Texas. He was sentenced, however, in the district court for the Western District of Arkansas. Thus, the only court with jurisdiction to entertain Pardue's motion is the district court for the Western District of Arkansas. See Ojo v. I.N.S., 106 F.3d 680, 683 (5th Cir. 1997). The district court did not err by dismissing without prejudice Pardue's § 2255 motion for lack of jurisdiction. See Solsona, 821 F.2d at 1132. The judgment of the district court is AFFIRMED.

AFFIRMED.