

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-30727
Summary Calendar

MARLON PERCY BRAMWELL,

Petitioner-Appellant,

versus

WARDEN U.S. PENITENTIARY LOMPOC,

Respondent-Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 99-CV-233

January 27, 2000

Before JOLLY, JONES, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Marlon Percy Bramwell, federal prisoner No. 37553-004, seeks a certificate of appealability (COA) to appeal the denial of his motion, captioned as a writ of error coram nobis, which the district court construed as a petition under 28 U.S.C. § 2254 and dismissed as time-barred.

Bramwell argues that the district court erred in construing his motion as seeking § 2254 relief and that the motion was timely filed because there are no time limitations on the availability of coram nobis relief.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

A COA is not necessary to appeal from an order denying coram nobis relief. United States v. Dyer, 136 F.3d 417, 429 n.32 (5th Cir. 1998). However, as Bramwell wishes to challenge the validity of a prior state conviction used to enhance his current federal sentence, the district court lacked jurisdiction to entertain a request for coram nobis relief. United States v. Morgan, 346 U.S. 502, 508 n.9 (1954). The appeal is dismissed with regard to Bramwell's request for coram nobis relief.

Bramwell does not challenge the district court's denial of relief under § 2254; therefore, he has failed to make a substantial showing of the denial of a constitutional right with regard to that issue and his motion for a COA is denied. 28 U.S.C. § 2253(c)(2).

APPEAL DISMISSED AS TO REQUEST FOR CORAM NOBIS RELIEF; COA DENIED AS TO § 2254 RELIEF.