

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

United States Court of Appeals
Fifth Circuit

FILED

October 3, 2013

Lyle W. Cayce
Clerk

No. 12-11282

Summary Calendar

KAMAL K. PATEL,

Petitioner-Appellant

v.

WAYNE PHILLIPS, Warden,

Respondent-Appellee

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:12-CV-210

Before DAVIS, SOUTHWICK and HIGGINSON, Circuit Judges.

PER CURIAM:*

Kamal K. Patel, federal prisoner # 56496-080, appeals from the order of the district court denying his petition for habeas corpus relief pursuant to 28 U.S.C. § 2241. In the district court, Patel argued that his conviction and sentence violated *Apprendi v. New Jersey*, 530 U.S. 466 (2000). On appeal, he argues that he should not have been sentenced as an armed career criminal, pursuant to *Chambers v. United States*, 555 U.S. 122 (2009), and *Begay v. United States*, 553 U.S. 137 (2008).

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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We have nothing to consider in this appeal. Patel raises the *Chambers/Begay* argument for the first time on appeal, and we do not consider issues raised for the first time on appeal. See *Leverette v. Louisville Ladder Co.*, 183 F.3d 339, 342 (5th Cir. 1999). Moreover, by failing to raise the *Apprendi* issue in his appellate brief, Patel has abandoned it. See *Cinel v. Connick*, 15 F.3d 1338, 1345 (5th Cir. 1994). Patel's appeal is frivolous.

The current § 2241 petition was not Patel's first attempt to obtain relief pursuant to *Apprendi* or its progeny, *United States v. Booker*, 543 U.S. 220 (2005), and he has otherwise attempted to challenge his conviction on collateral review on several occasions. See *In re Patel*, No. 11-50947, 1-2 (5th Cir. Feb. 28, 2012) (unpublished order denying authorization to file a successive 28 U.S.C. § 2255 motion); *In re Patel*, No. 05-50674, 1-2 (5th Cir. July 19, 2005) (unpublished order denying authorization to file a successive § 2255 motion based on *Booker*); *Patel v. Morris*, 37 F. App'x 428, 429-32 (10th Cir. 2002) (affirming order denying relief under § 2241 based on *Apprendi*); *In re Patel*, No. 00-50980 (5th Cir. Nov. 7, 2000) (unpublished order denying authorization to file a successive § 2255 motion based on *Apprendi*). Patel is WARNED that frivolous, repetitive, or otherwise abusive filings will invite the imposition of sanctions, which may include dismissal, monetary sanctions, and restrictions on his ability to file pleadings in this court and any court subject to this court's jurisdiction.

APPEAL DISMISSED, see 5TH CIR. R. 42.2. SANCTION WARNING ISSUED.