

July 10, 2003

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 03-10082
Summary Calendar

BEN N. BADIO,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:02-CV-2332

Before JOLLY, HIGGINBOTHAM and DAVIS, Circuit Judges.

PER CURIAM:*

Ben N. Badio, federal prisoner number 28747-077, appeals from the dismissal of his 28 U.S.C. § 2241 petition in which he challenged his 1996 guilty-plea conviction for making a false claim against a United States federal agency in violation of 18 U.S.C. § 287. Because Badio challenged errors that allegedly occurred at his sentencing, the district court construed his

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

petition as an unauthorized successive 28 U.S.C. § 2255 motion and dismissed it.

Afforded liberal construction, Badio argues on appeal that he is entitled to application of the "savings clause" of 28 U.S.C. § 2255. However, Badio has failed to show that the remedies provided for under 28 U.S.C. § 2255 are inadequate or ineffective to test the legality of his detention. See Reyes-Requena v. United States, 243 F.3d 893, 901 (5th Cir. 2001).

Accordingly, the district court's judgment is AFFIRMED.