

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

United States Court of Appeals
Fifth Circuit

FILED

October 1, 2010

Lyle W. Cayce
Clerk

No. 10-40227

Summary Calendar

STEVEN DAVID MONTAGUE,

Petitioner-Appellant

v.

JOHN B. FOX, Warden,

Respondent-Appellee

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:09-CV-776

Before JONES, Chief Judge, and SMITH and CLEMENT, Circuit Judges.

PER CURIAM:*

Steven David Montague, federal prisoner # 10601-081, was convicted of several counts of possession of a firearm by a felon and of possession of a controlled substance. He appeals the district court's denial of his 28 U.S.C. § 2241 petition challenging the Bureau of Prisons's (BOP) method of calculating his good conduct time (GCT) credit under 18 U.S.C. § 3624(b).

In *Sample v. Morrison*, 406 F.3d 310, 312 (5th Cir. 2005), we held that, where the prisoner was not claiming he was immediately eligible for release, we

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

lacked subject matter jurisdiction over the appeal of his § 2241 petition challenging the BOP's calculation of GCT credit under § 3624(b). We concluded that the petition was not ripe because the prisoner had not established that he would sustain immediate injury that could be redressed by the relief requested. *Id.*

Montague requests the same relief as the petitioner in *Sample*. However, whether Montague's projected release date is computed on the basis of the BOP's interpretation or his own, he is not yet entitled to release. Thus, like the petitioner in *Sample*, Montague's petition is not ripe for review, and the instant appeal is dismissed for lack of subject matter jurisdiction. *See Sample*, 406 F.3d at 312. Moreover, even if Montague's request for relief were not premature, his argument is foreclosed. *See Barber v. Thomas*, 130 S. Ct. 2499, 2504 (2010); *Moreland v. Federal Bureau of Prisons*, 431 F.3d 180, 186 (5th Cir. 2005).

APPEAL DISMISSED.