

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

No. 16-40065
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 12, 2017

Lyle W. Cayce
Clerk

JUAN JOSE ZUNIGA-HERNANDEZ,

Petitioner-Appellant

v.

RACHEL CHAPA, Warden,

Respondent-Appellee

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:15-CV-311

Before JONES, WIENER, and CLEMENT, Circuit Judges.

PER CURIAM:*

Petitioner-Appellant Juan Jose Zuniga-Hernandez, federal prisoner # 23429-034, appeals the district court's dismissal of his 28 U.S.C. § 2241 petition. The district court's dismissal of the petition was two-fold. The court initially determined that the initial pleading was an unauthorized successive § 2255 motion because it failed to meet the requirements of the savings clause of § 2255(e). *See Garland v. Roy*, 615 F.3d 391, 394 (5th Cir. 2010) (citing

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Reyes-Requena v. United States, 243 F.3d 893, 901 (5th Cir. 2001)). Following consideration of Zuniga-Hernandez's objections to the magistrate judge's report and recommendation, the court determined that no relief was warranted because the claims raised therein already had been rejected by this court.

A § 2241 petition that raises "the same legal issue" addressed and resolved in a prior filing is considered to be abusive and should be dismissed. *United States v. Tubwell*, 37 F.3d 175, 177-78 (5th Cir. 1994); *see, e.g., Rich v. Tamez*, 489 F. App'x 754 (5th Cir. 2012). We review a district court's decision to dismiss a habeas petition as an abuse of the writ for an abuse of discretion. *James v. Cain*, 56 F.3d 662, 665 (5th Cir. 1995).

Zuniga-Hernandez's argument that in light of *Watson*, he was convicted of a nonexistent offense, was rejected by the district court and by this court. In reaching this conclusion, this court impliedly considered and rejected the argument that Zuniga-Hernandez now advances. *See Zuniga-Hernandez*, 548 F. App'x at 150-51. Accordingly, the district court did not abuse its discretion in dismissing the § 2241 petition. *See Tubwell*, 37 F.3d at 177-78. The judgment of the district court is AFFIRMED. We CAUTION Zuniga-Hernandez that frivolous, repetitive, or otherwise abusive filings may invite the imposition of sanctions, including dismissal, monetary sanctions, and restrictions on his ability to file pleadings in this court and any court subject to this court's jurisdiction.