

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

June 9, 2022

Lyle W. Cayce  
Clerk

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No. 22-60045  
Summary Calendar

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ELIAS MENDOZA,

*Petitioner—Appellant,*

*versus*

P. BOULET, *Warden, Federal Correctional Institution Yazoo City Medium,*

*Respondent—Appellee.*

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Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 3:21-CV-541

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Before SMITH, HIGGINSON, and WILLETT, *Circuit Judges.*

PER CURIAM:\*

Elias Mendoza, federal prisoner #68675-380, seeks leave to appeal *in forma pauperis* the dismissal of his 28 U.S.C. § 2241 petition challenging his sentence as exceeding the statutory maximum. The district court determined that Mendoza could not proceed via § 2241 because he failed to show

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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that the remedy under § 2255 was inadequate or ineffective as required by the savings clause of § 2255(e). *See Reyes-Requena v. United States*, 243 F.3d 893, 904 (5th Cir. 2001) (setting forth the text of the savings clause).

Mendoza was not entitled to proceed under the savings clause. *See Padilla v. United States*, 416 F.3d 424, 425–26 (5th Cir. 2005). He has offered no nonfrivolous argument to the contrary. Accordingly, his motion to proceed *in forma pauperis* on appeal is DENIED. In addition, because Mendoza’s appeal is frivolous, it is DISMISSED. *See Baugh v. Taylor*, 117 F.3d 197, 202 & n.24 (5th Cir. 1983); 5TH CIR. R. 42.2.