

United States Court of Appeals
for the Fifth Circuit

No. 26-30040

United States Court of Appeals
Fifth Circuit

FILED

August 24, 2026

Lyle W. Cayce
Clerk

JEROME RASHAD BENAMON,

Petitioner—Appellant,

versus

J. W. COX, *Warden, Federal Correctional Complex Pollock*; UNITED
STATES MARSHAL, WESTERN DISTRICT OF LOUISIANA,

Respondents—Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 1:25-CV-1420

Before GRAVES, WILSON, and RAMIREZ, *Circuit Judges*.

PER CURIAM:*

Jerome Rashad Benamon, federal prisoner # 19802-043, moves to proceed in forma pauperis (IFP) on appeal from the without-prejudice dismissal of his 28 U.S.C. § 2241 petition and the denial of his Federal Rule of Civil Procedure 59(e) motion. In order to be granted IFP status, in addition to demonstrating that he qualifies as a pauper, Benamon must show

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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that he will present a nonfrivolous appellate issue. *See Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982).

Benamon faults the district court for failing to conduct a de novo review of the report issued by the magistrate judge. However, the district court acknowledged Benamon's objection and indicated it had conducted a de novo review. "[I]n the absence of evidence to the contrary," we assume that the district court did its statutory duty to conduct de novo review. *Longmire v. Guste*, 921 F.2d 620, 623 (5th Cir. 1991); 28 U.S.C. § 636(b)(1).

As to Benamon's argument that the district court misapplied the saving clause of 28 U.S.C. § 2255(e), because the § 2241 petition challenged his federal conviction and sentence, the district court was required to construe it as a § 2255 motion or dismiss it. *See Pack v. Yusuff*, 218 F.3d 448, 452 (5th Cir. 2000). As only the sentencing court in the Southern District of Mississippi has jurisdiction to decide such a motion, *see Ojo v. I.N.S.*, 106 F.3d 680, 683 (5th Cir. 1997), to avoid dismissal, Benamon had to satisfy the saving clause of § 2255(e) by showing that "unusual circumstances make it impossible or impracticable to seek relief in the sentencing court," *Jones v. Hendrix*, 599 U.S. 465, 478 (2023). Benamon has failed to raise a nonfrivolous argument that he made that showing. *See id.* at 480-82. Finally, as the district court correctly determined it lacked jurisdiction over Benamon's petition, he cannot demonstrate a nonfrivolous issue for appeal as to the without-prejudice dismissal of his constitutional challenges to his convictions without addressing their merits. *See Pack*, 218 F.3d at 454-55.

As Benamon does not make the requisite showing that he will present a nonfrivolous issue for appeal, *see Carson*, 689 F.2d at 586, his motion to proceed IFP is DENIED, and his appeal is DISMISSED as frivolous. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.24 (5th Cir. 1997); 5TH CIR. R. 42.2.