

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

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No. 01-40915  
Summary Calendar

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MICHAEL ANTHONY CASTRO,

Petitioner-Appellant,

versus

ERNEST CHANDLER, Warden,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 1:01-CV-252

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December 28, 2001

Before POLITZ, WIENER, and PARKER, Circuit Judges.

PER CURIAM:\*

Michael Anthony Castro, federal prisoner # 65029-080, appeals the district court's dismissal of his 28 U.S.C. § 2241 petition. He contends that he should be allowed to bring a 28 U.S.C. § 2241 petition under the savings clause of 28 U.S.C.

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

§ 2255. He raises claims of 1) “actual innocence” to his enhanced sentence under 18 U.S.C. 924(e), the Armed Career Criminal Act; 2) a violation of Apprendi v. New Jersey,<sup>1</sup>; and 3) various instances of ineffective assistance of counsel during the guilty plea and sentencing. Castro’s motion for leave to file a supplemental brief is DENIED. Castro’s motion for release on bail pending the appeal of the denial of his 28 U.S.C. § 2241 petition is DENIED.

Castro has not demonstrated that any of his claims are “based on a retroactively applicable Supreme Court decision which establishes that [he] may have been convicted of a nonexistent offense.”<sup>2</sup> Therefore, Castro has not shown that his claims fall within the savings clause of 28 U.S.C. § 2255.

AFFIRMED.

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<sup>1</sup>530 U.S. 466 (2000).

<sup>2</sup>See Reyes-Requena v. United States, 243 F.3d 893, 904 (5th Cir. 2001).