

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-41006
Conference Calendar

BURVON KING,

Petitioner-Appellant,

versus

ERNEST CHANDLER, Warden,

Respondent-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:01-CV-379

December 12, 2002

Before JOLLY, JONES, and CLEMENT, Circuit Judges.

PER CURIAM:*

Burvon King, federal prisoner # 21029-077, appeals from the dismissal of his 28 U.S.C. § 2241 petition. King argues that the indictment and sentence in his case violated Apprendi v. New Jersey, 530 U.S. 466 (2000), and that the "savings clause" of 28 U.S.C. § 2255 applies to allow him to pursue 28 U.S.C. § 2241 relief. Apprendi does not apply retroactively to cases on collateral review and does not establish that King was convicted

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

of a nonexistent offense. Wesson v. U.S. Penitentiary, 305 F.3d 343, 347 (5th Cir. 2002). King cannot make a showing sufficient to invoke the "savings clause" of 28 U.S.C. § 2255 to pursue 28 U.S.C. § 2241 relief. Id.

AFFIRMED.