

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-41117  
Summary Calendar

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JAMES OTIS DEASON,

Petitioner-Appellant,

versus

E.V. CHANDLER, Warden,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Texas  
(1:01-CV-432)

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November 4, 2002

Before BARKSDALE, DeMOSS and BENAVIDES, Circuit Judges.

PER CURIAM:\*

James Otis Deason, federal prisoner #07429-021, appeals the dismissal of his 28 U.S.C. § 2241 motion. (Deason's motion for leave to file a supplemental brief is **DENIED**.)

Deason contends: the indictment and sentence in his case violated **Apprendi v. New Jersey**, 530 U.S. 466 (2000); and the "savings clause" of 28 U.S.C. § 2255 allows him to pursue 28 U.S.C. § 2241 relief. **Apprendi** does not apply retroactively to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

cases on collateral review. *Wesson v. U.S. Penitentiary*, \_\_\_  
F.3d \_\_\_ (5th Cir. 5 Sept. 2002), 2002 WL 31006173, \*3. Deason  
cannot invoke the "savings clause" of 28 U.S.C. § 2255 to pursue  
28 U.S.C. § 2241 relief. *Id.*

**AFFIRMED**