

June 25, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 03-30082  
Conference Calendar

---

LORENZO JEFFERSON,

Petitioner-Appellant,

versus

JOSEPH M. HARO,

Respondent-Appellee.

-----  
Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 02-CV-1703  
-----

Before DeMOSS, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:\*

Lorenzo Jefferson, federal prisoner # 08786-035, has appealed the district court's judgment dismissing his application for a writ of habeas corpus challenging his March 28, 1995, convictions for conspiracy to possess with intent to distribute cocaine base and possession with intent to distribute a controlled substance. Jefferson contends that he should be permitted to proceed under 28 U.S.C. § 2241 under the Savings Clause of 28 U.S.C. § 2255 because he is innocent in light of Apprendi v. New Jersey, 530 U.S. 466 (2000). Jefferson's

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

argument is foreclosed by Wesson v. United States Penitentiary Beaumont, TX, 305 F.3d 343, 347 (5th Cir. 2002), cert. denied, 123 S. Ct. 1374 (2003).

Previously, this court refused to permit Jefferson to file a second or successive motion under 28 U.S.C. § 2255. See 28 U.S.C. § 2244(b). Jefferson contends that the Anti-Terrorism and Effective Death Penalty Act of 1996 ("AEDPA") violates his rights under the Ex Post Facto Clause and that the AEDPA violates the Suspension Clause. We need not consider these issues because they have been raised for the first time on appeal, see Leverette v. Louisville Ladder Co., 183 F.3d 339, 342 (5th Cir. 1999), and because they are not pertinent to the question whether Jefferson should be permitted to proceed under 28 U.S.C. § 2241. The issues are without merit, in any event. See Felker v. Turpin, 518 U.S. 651, 663-64 (1996); see also Wesson, 305 F.3d at 347; Graham v. Johnson, 168 F.3d 762, 786 (5th Cir. 1999).

Because Jefferson's appeal is without arguable merit, it is DISMISSED AS FRIVOLOUS. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); see also 5TH CIR. R. 42.2.

APPEAL DISMISSED.