

February 17, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-30903
Conference Calendar

AUTRY LEE JONES,

Petitioner-Appellant,

versus

ROBERT M. TAPIA,

Respondent-Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 03-CV-969

Before HIGGINBOTHAM, EMILIO M. GARZA, and PRADO, Circuit Judges.

PER CURIAM:*

Autry Lee Jones, federal prisoner # 52873-080, appeals the district court's denial of his 28 U.S.C. § 2241 petition. Because Jones's 28 U.S.C. § 2241 petition challenged the legality of his conviction, Jones had to show that 28 U.S.C. § 2255 provided him with an inadequate or ineffective remedy. See Pack v. Yusuff, 218 F.3d 448, 452 (5th Cir. 2000).

Jones argues that: (1) he has been denied his First Amendment right to petition the courts; (2) his counsel was

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

ineffective; and (3) he is actually innocent. Jones has not shown that any of his claims meet the requirements of the Savings Clause as he has not shown that his claims are based on a retroactively applicable Supreme Court decision which establishes that he may have been convicted of a nonexistent offense and that was foreclosed by circuit law at the time when the claim should have been raised in his trial, appeal, or first 28 U.S.C. § 2255 motion. See Reyes-Requena v. United States, 243 F.3d 893, 904 (5th Cir. 2001). Because Jones fails to demonstrate that relief pursuant to 28 U.S.C. § 2255 is inadequate or ineffective, the district court's judgment is AFFIRMED. Jones's motion for oral argument is DENIED.