

June 21, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-10954
Conference Calendar

ANGELO DEWELL BRANCH,

Petitioner-Appellant,

versus

DOUG DRETKE, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:03-CV-355

Before WIENER, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Angelo Dewell Branch, Texas prisoner # 478123, appeals the denial of his 28 U.S.C. § 2241 petition, in which he challenged the constitutionality of his forced labor while incarcerated.

We affirm.

Branch's contention that the district court lacked authority to deny habeas relief without first ordering the respondent to answer his petition is frivolous. A district court is required to dismiss a habeas petition prior to ordering the respondent to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

answer if it plainly appears that the petitioner is not entitled to relief. Rule 4 of the Rules Governing Section 2254 Cases.

Branch raises several constitutional challenges to his forced labor while imprisoned by the Texas Department of Criminal Justice; however, he has not addressed the district court's determination that such claims are challenges to the conditions of his confinement and, therefore, not cognizable in a 28 U.S.C. § 2241 petition. He has therefore waived its review, see Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993), and we uphold the judgment of the district court.

AFFIRMED.