

December 14, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-11372
Conference Calendar

EJOOR PATRICK EKWEREKWU,

Petitioner-Appellant,

versus

L.E. FLEMING, Warden,
Federal Medical Center Fort Worth,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:04-CV-780-A

Before KING, Chief Judge, and HIGGINBOTHAM and SMITH, Circuit Judges.

PER CURIAM:*

Ejoor Patrick Ekwerekwu, federal prisoner # 24828-077, appeals the dismissal of his 28 U.S.C. § 2241 habeas petition challenging the 295-month sentence imposed following his jury trial conviction for conspiracy to import heroin. Ekwerekwu argues that his sentence was unconstitutional in light of Blakely v. Washington, 124 S. Ct. 2531 (2004) and United States v. Booker, 125 S. Ct. 738 (2005) because it was based on drug quantities not determined by the jury. He contends that he is

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

entitled to seek relief under 28 U.S.C. § 2241 because 28 U.S.C. § 2255 offers an inadequate remedy.

Because Ekwerekwu challenges errors that occurred at sentencing, the claim may not be asserted in a 28 U.S.C. § 2241 petition. See Padilla v. United States, 416 F.3d 424, 426-27 (5th Cir. 2005). Ekwerekwu's argument that he is entitled to proceed under 28 U.S.C. § 2241 based on the savings clause of 28 U.S.C. § 2255 because relief under that section is "inadequate or ineffective" is unavailing. Id. at 427. The district court's judgment is AFFIRMED.