

February 28, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-40922
Summary Calendar

KERRY DEWAYNE LAURY,

Petitioner-Appellant,

versus

R. D. MILES, Warden,

Respondent-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:04-CV-379-TH-WCR

Before GARZA, DeMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Kerry Dewayne Laury, federal prisoner # 24149-077, appeals the district court's denial of his 28 U.S.C. § 2241 petition. He argues that the district court erred in its determination that his § 2241 petition did not warrant application of the § 2255 savings clause. See 28 U.S.C. § 2255. Laury contends that "he was charged with a crime that was not a crime" and is therefore innocent of the offense of conviction. See Reyes-Requena v. United States, 243 F.3d 893, 904 (5th Cir. 2001).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Laury has not carried his burden of demonstrating that § 2255 relief would be "inadequate or ineffective." See 28 U.S.C. § 2255; Jeffers v. Chandler, 253 F.3d 827, 830 (5th Cir. 2001). Although he cites Bailey v. United States, 516 U.S. 137 (1995), he has not shown that his claim was foreclosed by circuit law when he filed his first motion pursuant to 28 U.S.C. § 2255. See Reyes-Requena, 243 F.3d at 904.

Laury's motion for leave to file a supplemental exhibit is DENIED.

Laury's FED. R. APP. P. 28(j) letter to this court fails to satisfy the requirements of Rule 28(j) as it does not indicate how the claim or the cited cases affect or enhance the arguments set forth in his brief. See FED. R. APP. P. 28(j).

AFFIRMED.