

March 24, 2006

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 04-51316
Summary Calendar

GREGORY SCOTT COURTNEY,

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 Western District of Texas
USDC No. 5:04-CV-821

Before JOLLY, DAVIS, and OWEN, Circuit Judges.

PER CURIAM:*

Gregory Scott Courtney, then Texas prisoner # 820578, now federal prisoner # 91805-080, has filed a motion in this court to proceed in forma pauperis (IFP) from the district court's denial of his 28 U.S.C. § 2241 petition, which the district court construed as arising under 28 U.S.C. § 2254. He argues that the Texas Board of Pardons and Paroles violated his constitutional rights by denying him release on parole or mandatory supervision

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

and that he has been forced to work while in prison without just compensation in violation of the Thirteenth Amendment.

We construe Courtney's notice of appeal as a request for a certificate of appealability (COA) pursuant to FED. R. APP. P. 22(b)(2). See § 2253(c)(1). To obtain a COA, Courtney must make a substantial showing of the denial of a constitutional right. See § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336 (2003).

During the pendency of this appeal, Courtney was released from Texas state prison to mandatory supervision, and Courtney is now serving a federal sentence in the Federal Correctional Institution in Yazoo City, Mississippi. Courtney's claims have been rendered moot by his release into federal custody. See Bailey v. Southerland, 821 F.2d 277, 278-79 (5th Cir. 1987). Therefore, this appeal is DISMISSED AS MOOT. COA and IFP are DENIED AS MOOT. Any other requested relief also is DENIED.