

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-60548
Summary Calendar

GRADY RAY HOWARD,

Petitioner-Appellant,

versus

DONALD A. MCKELVY,
Warden, Federal
Correctional Institute,

Respondent-Appellee.

- - - - -
Appeal from the United States District Court
for the Southern District of Mississippi
(97-CV-139)
- - - - -

May 7, 1999

Before JOLLY, SMITH, and WIENER, Circuit Judges.

PER CURIAM:*

Petitioner-Appellant Grady Ray Howard, federal prisoner 40817-019, argues that the district court erred in dismissing his 28 U.S.C. § 2241 petition in which he contends that he is entitled to a credit on his federal sentence for time served on his state sentence prior to the imposition of his federal sentence. Our review of the record and the briefs of the parties, and our application of the pertinent provisions of law, lead us to the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

conclusion that Howard's petition was properly dismissed for the reasons stated by the district court. See Howard v. McKelvy, No. 5:97-CV-139-BRS (S.D. Miss. July 22, 1998). As Howard has failed to raise an issue of arguable merit in his appeal, it is frivolous. We therefore dismiss the appeal. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. Rule 42.2.

Howard's request for emergency relief is denied. If he wishes to pursue these claims, he must present them to the district court.
APPEAL DISMISSED; REQUEST FOR EMERGENCY RELIED DENIED.