

June 19, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-40509
Conference Calendar

JIMMY D. CLARK,

Petitioner-Appellant,

versus

WARDEN JOE D. DRIVER,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:05-CV-262

Before JONES, Chief Judge, and JOLLY and DENNIS, Circuit Judges.

PER CURIAM:*

Jimmy D. Clark, federal prisoner # 57808-080, appeals the dismissal of his 28 U.S.C. § 2241 petition challenging his 1994 guilty-plea conviction of bank robbery and his 204-month prison sentence. Clark contends that his sentence was unconstitutional in light of United States v. Booker, 543 U.S. 220 (2005), and Blakely v. Washington, 542 U.S. 296 (2004), and that he should be permitted to assert his Booker claim in a § 2241 proceeding under the savings clause of 28 U.S.C. § 2255. Because Blakely and Booker are not retroactively applicable to cases on collateral

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

review, Clark cannot show that he should be permitted to assert his claims under the savings clause of § 2255. See Padilla v. United States, 416 F.3d 424, 426-27 (5th Cir. 2005); Reyes-Requena v. United States, 243 F.3d 893, 904 (5th Cir. 2001). The district court's judgment is affirmed.

Clark's most recent § 2241 petition is only his latest of several frivolous attempts to circumvent the statutory limitations on filing successive § 2255 motions. Clark is hereby warned that future frivolous filings in this court or in the district court will invite the imposition of sanctions, including monetary penalties and restrictions on his ability to file actions and appeals.

AFFIRMED; SANCTION WARNING ISSUED.