

June 21, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-10727
Conference Calendar

FRANK FOUNTAIN, JR.,

Petitioner-Appellant,

versus

COLE JETER, 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-909

Before STEWART, DENNIS, and OWEN, Circuit Judges.

PER CURIAM:*

Frank Fountain, Jr., federal prisoner # 97040-079, appeals the district court's dismissal of his 28 U.S.C. § 2241 habeas petition, which followed his convictions and sentences for wire fraud, mail fraud, and concealing assets. Fountain challenged the constitutionality of his convictions and sentences in light of United States v. Booker, 543 U.S. 220 (2005), and Blakely v. Washington, 542 U.S. 296 (2004).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The errors asserted by Fountain may not be raised in a § 2241 petition unless they arise under the savings clause of 28 U.S.C. § 2255. We have held that claims based on Booker and Blakely do not fall under the savings clause of § 2255. See Padilla v. United States, 416 F.3d 424, 426-27 (5th Cir. 2005). Accordingly, the district court's judgment is AFFIRMED.