

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

April 15, 2009

No. 08-30724
Summary Calendar

Charles R. Fulbruge III
Clerk

DENNIS PURNELL, also known as Scott J Mosley

Petitioner-Appellant

v.

JOE KEFFER

Respondent-Appellee

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 1:08-CV-590

Before HIGGINBOTHAM, BARKSDALE, and ELROD, Circuit Judges.

PER CURIAM:*

Dennis Purnell, federal prisoner # 40677-004, appeals the dismissal of his 28 U.S.C. § 2241 petition, which challenged his 1997 drug and firearms convictions and sentences. He argued that his convictions violated the Double Jeopardy Clause because they subjected him to multiple punishments based on the same evidence and course of conduct, that the verdicts were inconsistent, and that he is actually innocent of the crimes of conviction.

* Pursuant to Fifth Circuit Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Fifth Circuit Rule 47.5.4.

No. 08-30724

Because Purnell challenged errors that occurred at or before sentencing, his claim could not be asserted in a § 2241 petition. *See Tolliver v. Dobre*, 211 F.3d 876, 877 (5th Cir. 2000). Moreover, Purnell has not met his burden of showing that he is entitled to proceed under § 2241 via the savings clause of 28 U.S.C. § 2255 solely because his first § 2255 motion was dismissed as untimely. *See Pack v. Yusuff*, 218 F.3d 448, 452–53 (5th Cir. 2000). Accordingly, the district court’s dismissal of Purnell’s § 2241 petition is AFFIRMED.