

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

United States Court of Appeals
Fifth Circuit

FILED

June 1, 2011

Lyle W. Cayce
Clerk

No. 10-31211
Summary Calendar

ROBERT C. JONES,

Petitioner-Appellant

v.

Warden NEWCOMER; UNITED STATES OF AMERICA,

Respondents-Appellees

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 3:10-CV-1075

Before GARWOOD, PRADO and HAYNES, Circuit Judges.

PER CURIAM:*

Robert C. Jones, Louisiana prisoner # 92145, filed the instant 28 U.S.C. § 2241 petition seeking release from his pre-trial custody in a state mental facility. He appeals from the magistrate judge's denial of his "Emergency Application for Writ of Habeas Corpus Ad Testificandum," which he filed several months after he filed his § 2241 petition.

This court must examine the basis of its jurisdiction on its own motion if

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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necessary. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). There is no evidence in the record that Jones consented to proceed before the magistrate judge pursuant to 28 U.S.C. § 636(c)(1) or that the district court ever considered the magistrate judge's order denying Jones's emergency application for habeas relief. Consequently, we DISMISS this appeal for lack of appellate jurisdiction. *See Gregg v. Linder*, 349 F.3d 860, 862 (5th Cir. 2003).