

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-7285

RUBEN MENDEZ,

Petitioner - Appellant,

versus

GEORGE SNYDER, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Louise W. Flanagan, Chief District Judge. (CA-05-352-5)

Submitted: January 19, 2006

Decided: January 25, 2006

Before WILKINSON, TRAXLER, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Ruben Mendez, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Ruben Mendez filed a petition under 28 U.S.C. § 2241 (2000), claiming that his sentence violated the Sixth Amendment. See United States v. Booker, 543 U.S. 220 (2005). A petitioner may challenge his sentence under § 2241 only if 28 U.S.C. § 2255 (2000) is inadequate or ineffective to test the legality of his sentence. 28 U.S.C. § 2255; In re Jones, 226 F. 3d 328, 333-34 (4th Cir. 2000). Mendez has not established that § 2255 is inadequate or ineffective as discussed in Jones, so he is not entitled to proceed under § 2241.* Accordingly, we affirm the denial of relief. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

*The district court also construed the petition as a motion under 28 U.S.C. § 2255 (2000), and dismissed it. Mendez intended his petition as one under § 2241, and because the district court did not have jurisdiction under § 2255 to consider the validity of Mendez's sentence on his convictions arising out of the Southern District of Florida, we decline to consider this case under § 2255.