

## United States Court of Appeals

Fifth Circuit

**F I L E D**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**February 23, 2006**Charles R. Fulbruge III  
ClerkNo. 05-10140  
Conference Calendar

JACK DONALD BAXTER,

Petitioner-Appellant,

versus

COLE JETER, Warden,  
Federal Medical Center Fort Worth,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:04-CV-942  
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Before GARZA, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:\*

Jack Donald Baxter, federal prisoner # 03659-078, was convicted in 1992 of conspiracy to possess with intent to distribute amphetamine and sentenced to 240 months in prison. He appeals the district court's dismissal of his 28 U.S.C. § 2241 petition, arguing that his sentence was illegal because it was based on facts not submitted to the jury and proved beyond a reasonable doubt in violation of United States v. Booker,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

543 U.S. 220 (2005), and Blakely v. Washington, 542 U.S. 296 (2004). He argues that his claims should be allowed to proceed under the savings clause of 28 U.S.C. § 2255. Baxter's argument is unavailing in light of this court's decision in Padilla v. United States, 416 F.3d 424, 426-27 (5th Cir. 2005).

AFFIRMED.