

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

United States Court of Appeals
Fifth Circuit

FILED

September 16, 2010

No. 09-41234
Summary Calendar

Lyle W. Cayce
Clerk

DON A. HARPER,

Petitioner - Appellant

v.

JOHN B. FOX, Warden; UNITED STATES ATTORNEY'S OFFICE,

Respondents - Appellees

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:09-CV-840

Before DAVIS, SMITH, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Don A. Harper, federal prisoner # 24496-013, appeals the district court's dismissal of his 28 U.S.C. § 2241 petition, in which he challenged his convictions for armed bank robbery and for using or carrying a firearm during the robbery. The district court determined that Harper could not proceed under Section 2241 because his claims did not satisfy the requirements of the "savings clause" of 28 U.S.C. § 2255(e). Harper's brief is entirely devoted to the merits of his claims

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

for relief. Harper has not argued, much less shown, that he is entitled to proceed under Section 2241 based on the savings clause of Section 2255(e). *See Reyes-Requena v. United States*, 243 F.3d 893, 900-01, 904 (5th Cir. 2001). Harper has waived the issue by failing to brief it. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993); *Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). The judgment of the district court is AFFIRMED. Harper's emergency motion for affirmative relief is DENIED.