

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

United States Court of Appeals
Fifth Circuit

FILED

July 26, 2012

Lyle W. Cayce
Clerk

No. 11-31176
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GLENN METZ, Also Known as Shorty, Also Known as Jeeper,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
No. 2:11-CV-1698

Before SMITH, STEWART, and PRADO, Circuit Judges.

PER CURIAM:*

Glenn Metz, federal prisoner # 28118-048, is serving a life sentence and has convictions of conducting a continuing criminal enterprise (“CCE”) and pos-

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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sessing cocaine with intent to distribute. Invoking 28 U.S.C. § 2241, he sued to challenge his convictions and sentence, and the district court dismissed the suit after determining that it should be construed as an unauthorized, successive 28 U.S.C. § 2255 motion.

This court is now presented with Metz's request for a certificate of appealability ("COA"), but one is not needed, because he sought relief under § 2241. *See Padilla v. United States*, 416 F.3d 424, 425 (5th Cir. 2005). The motion for a COA is DENIED as unnecessary.

Because Metz's claims do not relate to the execution of his sentence, the district court did not err by recharacterizing his putative § 2241 petition as a § 2255 motion. *See id.*; *Tolliver v. Dobre*, 211 F.3d 876, 877-78 (5th Cir. 2000). Insofar as Metz argues that he should be permitted to proceed under the savings clause of § 2255 because of his reliance on *DePierre v. United States*, 131 S. Ct. 2225 (2011), and *Richardson v. United States*, 526 U.S. 813 (1999), that argument is unavailing, because those decisions do not show that he was convicted of a nonexistent offense. *See Wilson v. Roy*, 643 F.3d 433, 434-35 (5th Cir. 2011), *cert. denied*, 132 S. Ct. 1062 (2012); *Christopher v. Miles*, 342 F.3d 378, 382 (5th Cir. 2003); *Jeffers v. Chandler*, 253 F.3d 827, 830-31 (5th Cir. 2001); § 2255(e)

The judgment is AFFIRMED.