

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

United States Court of Appeals
Fifth Circuit

FILED

April 22, 2013

Lyle W. Cayce
Clerk

No. 12-50883

Summary Calendar

GARY NUTALL,

Petitioner-Appellant,

v.

CLAUDE MAYE, Warden, Bastrop Federal Correctional Institution, Bastrop,
Texas,

Respondent-Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:11-CV-1100

Before HIGGINBOTHAM, OWEN, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Gary Nutall, federal prisoner # 74016-080, appeals the district court's dismissal of his 28 U.S.C. § 2241 habeas corpus petition for failure to satisfy the requirements of the savings clause of 28 U.S.C. § 2255. He seeks to challenge his conviction for using and carrying a firearm during and in relation to a crime of violence, pursuant to 18 U.S.C. § 924(c), on the ground that it cannot be sustained following *Bailey v. United States*, 516 U.S. 137 (1995).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 12-50883

The district court correctly determined that Nutall had not made the required showing that the *Bailey* decision rendered him actually innocent so as to satisfy the savings clause of § 2255 and qualify for relief under § 2241. See *Christopher v. Miles*, 342 F.3d 378, 382 (5th Cir. 2003); *Reyes-Requena v. United States*, 243 F.3d 893, 904 (5th Cir. 2001). The district court's judgment is AFFIRMED. Nutall's motion to stay is DENIED.