

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 06-3089

Ruben Lopez-Lopez, Reg. No.
17861-069,

Appellant,

v.

Linda Sanders, Warden, Federal
Correctional Institution, Forrest
City,

Appellee.

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Appeal from the United States
District Court for the
Eastern District of Arkansas.

[UNPUBLISHED]

Submitted: November 12, 2007
Filed: November 27, 2007

Before MURPHY, HANSEN, and GRUENDER, Circuit Judges.

PER CURIAM.

Ruben Lopez-Lopez appeals the dismissal of his 28 U.S.C. § 2241 petition for a writ of habeas corpus. Lopez-Lopez was convicted of drug offenses and sentenced to 235 months' imprisonment by the United States District Court for the District of Puerto Rico on July 10, 2000. The First Circuit affirmed his convictions and sentence in 2002. See United States v. Lopez-Lopez, 282 F.3d 1 (1st Cir.), cert. denied, 536

U.S. 949 (2002). Lopez-Lopez timely filed a motion pursuant to 28 U.S.C. § 2255, which the sentencing court summarily dismissed on April 29, 2004. The sentencing court and the First Circuit both denied a certificate of appealability. Lopez-Lopez, serving his sentence in Arkansas, now attempts to challenge the constitutionality of his conviction and sentence through § 2241.

A petitioner must generally challenge his conviction and sentence in the sentencing court through § 2255, and § 2241 is not available for such purposes unless the petitioner can demonstrate that a motion pursuant to § 2255 "is inadequate or ineffective." 28 U.S.C. § 2255; Abdullah v. Hedrick, 392 F.3d 957, 959 (8th Cir. 2004), cert. denied, 545 U.S. 1147 (2005); United States v. Lurie, 207 F.3d 1075, 1077 (8th Cir. 2000). Lopez-Lopez has not demonstrated that § 2255 was inadequate or ineffective to test the legality of his conviction. He asserts that the sentencing court did not understand or fully address his argument, but the fact that a claim was previously raised in a § 2255 motion and rejected by the sentencing court does not provide the necessary showing that § 2255 was inadequate or ineffective. Abdullah, 392 F.3d at 959; Lurie, 207 F.3d at 1077. We reject out of hand his suggestion that he is free to ignore the procedural limitations of § 2255 absent any valid demonstration that those procedures were "ineffective or inadequate" within the meaning of the statute.

Accordingly, we affirm the district court's¹ dismissal of this § 2241 petition for a writ of habeas corpus.

¹The Honorable Susan Webber Wright, United States District Judge for the Eastern District of Arkansas, adopting the Report and Recommendation of the Honorable H. David Young, United States Magistrate Judge for the Eastern District of Arkansas.