

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-7678

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JAMES CLAUDE BAILEY,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern
District of Virginia, at Newport News. Raymond A. Jackson,
District Judge. (CR-00-21)

Submitted: December 22, 2005

Decided: January 4, 2006

Before WIDENER, NIEMEYER, and KING, Circuit Judges.

Affirmed as modified by unpublished per curiam opinion.

James Claude Bailey, Appellant Pro Se. Michael R. Smythers,
Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

James Claude Bailey, a federal prisoner, appeals the district court's order construing his petition filed under 28 U.S.C. § 2241 (2000) as a 28 U.S.C. § 2255 (2000) motion and dismissing it as successive. Although Bailey sought, and received, transfer of his § 2241 petition from the Eastern District of Kentucky, his place of confinement, to the Eastern District of Virginia, the sentencing court, it is clear that Bailey intended to file a § 2241 petition raising a claim under United States v. Booker, 543 U.S. 220 (2005). Bailey argues on appeal that § 2255 is inadequate or ineffective to test the legality of his detention, contending that his Booker claim should be considered in the context of his § 2241 petition. Judicial review of a § 2241 petition must be sought in the the district of confinement rather than the sentencing court. In re Jones, 226 F.3d 328, 333 (4th Cir. 2000). In cases such as this one, where relief is sought in the sentencing court, the court is without jurisdiction to consider the request. On this basis, we affirm the district court's dismissal of Bailey's § 2241 petition without prejudice for lack of jurisdiction. We deny Bailey's motion for expedited response as moot. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED AS MODIFIED