

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 06-7319**

---

DORTHA ELKINS,

Plaintiff - Appellant,

versus

DEBORAH A. HICKEY, Warden,

Defendant - Appellee.

---

Appeal from the United States District Court for the Southern District of West Virginia, at Bluefield. David A. Faber, Chief District Judge. (1:04-cv-00992)

---

Submitted: December 18, 2006

Decided: January 8, 2007

---

Before MICHAEL and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

---

Affirmed by unpublished per curiam opinion.

---

Dortha Elkins, Appellant Pro Se. Michael Lee Keller, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

---

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Dortha Elkins appeals the district court order dismissing her 28 U.S.C. § 2241 (2000) petition for failure to state a claim. Because she failed to demonstrate that 28 U.S.C. § 2255 (2000) was inadequate or ineffective to test her conviction, Elkins did not meet the criteria for proceeding under § 2241. In re Jones, 226 F.3d 328, 333-34 (4th Cir. 2000). Accordingly, we deny Elkins' motions for appointment of counsel and to proceed on appeal in forma pauperis and affirm. 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