

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-521

In Re: ROBERT M. BRANISH,

Petitioner.

On Petition for Writ of Habeas Corpus. (CA-96-1005-3)

Submitted: May 1, 1997

Decided: May 8, 1997

Before WIDENER and MURNAGHAN, Circuit Judges, and PHILLIPS, Senior
Circuit Judge.

Petition denied by unpublished per curiam opinion.

Robert M. Branish, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Robert M. Branish, a federal prisoner, petitions this court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 (1994). Branish contends that the district court in which his 28 U.S.C.A. § 2255 (West 1994 & Supp. 1997) motion was pending has erroneously refused to accept jurisdiction over claims asserted in his supplemental motions filed in that court.

A court will not entertain a § 2241 petition unless a motion pursuant to § 2255 is "inadequate or ineffective to test the legality of [an inmate's] detention." See Swain v. Pressley, 430 U.S. 372, 381 (1977). The petitioner bears the burden of showing the inadequacy or ineffectiveness of a § 2255 motion. McGhee v. Hanberry, 604 F.2d 9, 10 (5th Cir. 1979).

Because Branish has an adequate remedy under 28 U.S.C. § 2255, namely an appeal from a final order disposing of the motion or a Fed. R. Civ. P. 60(b) motion challenging the dismissal of his supplemental motions, we deny leave to proceed in forma pauperis and dismiss this petition. Branish's motion for release on bail pending disposition of this petition is now moot and is denied for that reason. 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.

PETITION DENIED