

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 08-5067

September Term 2007

1:08-cv-00374-UNA

Filed On: September 5, 2008

Pierre Fouche,

Appellant

v.

Michael B. Mukasey, Attorney General of the
United States,

Appellee

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

BEFORE: Sentelle, Chief Judge, and Tatel and Griffith, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief filed by the appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the district court's order filed February 29, 2008, be affirmed. Appellant's complaint constituted a collateral attack on his conviction and sentence, which must be pursued by motion pursuant to 28 U.S.C. § 2255 in the sentencing court; or, if the § 2255 remedy is inadequate or ineffective, by a habeas petition under 28 U.S.C. § 2241 in the judicial district where appellant's custodian is located. See Charles v. Chandler, 180 F.3d 753, 755-56 (6th Cir. 1999) (per curiam); Chatman-Bey v. Thornburgh, 864 F.2d 804, 811 (D.C. Cir. 1988) (en banc). To the extent appellant sought to challenge his conviction or sentence via an independent action under Fed. R. Civ. P. 60(b), the claim fails. Appellant may not seek relief from a criminal sentence under Fed. R. Civ. P. 60(b), because Rule 60(b) is not applicable to criminal proceedings. See Fed. R. Civ. P. 1; United States v. Mosavi, 138 F.3d 1365, 1366 (11th Cir. 1998) (per curiam).

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam