

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

AUG 18 1999

PATRICK FISHER
Clerk

JERRY MILLER, JR.,

Petitioner - Appellant,

vs.

MICHAEL V. PUGH; UNITED
STATES PAROLE COMMISSION,

Respondents - Appellees.

No. 99-1219
(D.C. No. 98-Z-407)
(D. Colo.)

ORDER AND JUDGMENT*

Before **ANDERSON, KELLY, and BRISCOE**, Circuit Judges.**

Petitioner-Appellant Jerry Miller, Jr., an inmate appearing pro se, appeals the dismissal of his petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Mr. Miller challenges a 1997 decision of the United States Parole Commission to revoke his parole on a prior conviction based upon a 1984 parole violator warrant that was filed as a detainer. He contends that under former 18

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

** After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1 (G). The cause is therefore ordered submitted without oral argument.

U.S.C. § 4213(d) (1976), the parole violator warrant should be deemed to have been executed in 1984 because the marshal is required to execute such warrants. He also contends that he is entitled to a release date in accordance with a maximum guideline range of 152 months based upon a proper application of § 235(b)(3) of Sentencing Reform Act of 1984. We have carefully reviewed Mr. Miller's claims below and on appeal, we grant his motion for leave to proceed on appeal in forma pauperis and affirm for substantially the reasons set forth in the district court's order and judgment of dismissal. See R. doc. 22.

AFFIRMED.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge