

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 05-3596

Vincent C. Donovan,

Appellant,

v.

Alberto Gonzales, United States
Attorney General; R. Martinez,
Warden, FPC Yankton,

Appellees.

*
*
*
*
*
*
*
*
*
*

Appeal from the United States
District Court for the
District of South Dakota.

[UNPUBLISHED]

Submitted: July 3, 2006
Filed: July 5, 2006

Before RILEY, MAGILL, and GRUENDER, Circuit Judges.

PER CURIAM.

Vincent Donovan is serving a 212-month prison sentence imposed in the Eastern District of Wisconsin after a jury found him guilty of participating in a drug conspiracy and related offenses. See United States v. Donovan, 24 F.3d 908 (7th Cir.), cert. denied, 513 U.S. 905 (1994). From his current place of confinement at the Federal Prison Camp in Yankton, South Dakota, Donovan filed this 28 U.S.C. § 2241 petition in June 2005, challenging the government’s legal authority to charge him under 21 U.S.C. § 841, because “he was/is not [a member] of the ‘class’ of persons

whom the statute sweeps into its criminal ambit.” The district court¹ dismissed Donovan’s petition, finding his inability to file a successive 28 U.S.C. § 2255 motion did not make section 2255 inadequate or ineffective, and he appeals. Following careful review, see Hill v. Morrison, 349 F.3d 1089, 1091 (8th Cir. 2003), we affirm for the reasons stated by the district court. See 8th Cir. R. 47B. The government’s pending motion to expand the appellate record and take judicial notice of the previous 28 U.S.C. § 2241 petition is granted.

¹The Honorable Lawrence L. Piersol, United States District Judge for the District of South Dakota.