IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

	_ FILED
	U.S. COURT OF APPEALS
No. 10-12022	ELEVENTH CIRCUIT
Non-Argument Calendar	FEB 15, 2012
_	JOHN LEY
	CLERK

D.C. Docket No. 2:09-cv-00114-LGW-JEG

JAMES CHAPLIN,

Petitioner-Appellant,

versus

DEBORAH A. HICKEY, Warden, ATTORNEY GENERAL ERIC HOLDER, JR.,

Respondents-Appellees.

Appeal from the United States District Court for the Southern District of Georgia

(February 15, 2012)

Before TJOFLAT, CARNES and BLACK, Circuit Judges.

PER CURIAM:

James Chaplin, a counseled federal prisoner, appeals the district court's order dismissing his petition for writ of habeas corpus, under 28 U.S.C. § 2241, for failure to state a claim. His claim is that he was wrongly sentenced under the Armed Career Criminal Act, 18 U.S.C. § 924(e)(1), because of an escape conviction that *Begay v. United States*, 128 S. Ct. 1581 (2008), and *Chambers v. United States*, 129 S. Ct. 687 (2009), make clear is not a "violent felony" within the meaning of 18 U.S.C. § 924(e)(2)(B), and that as a result of the error he was sentenced to a term of imprisonment beyond the statutory maximum applicable to his crime. Our decision in *Gilbert v. United States*, 640 F.3d 1293 (11th Cir. 2010), did not decide that issue. *See id.* at 1295, 1306–07, 1312, 1316, 1319 n.20, 1323. The Government concedes that Chaplin's allegations, if true, do state a claim.

We exercise our discretion to accept in this case the Government's concession that Chaplin may present his claim in a § 2241 petition, and we remand to the district court for further proceedings on the merits of Chaplin's habeas claim to determine if the allegations of his petition are true.

VACATED and REMANDED for further proceedings.