[DO NOT PUBLISH]

## IN THE UNITED STATES COURT OF APPEALS

## FOR THE ELEVENTH CIRCUIT

No. 16-11432 Non-Argument Calendar

D.C. Docket No. 5:13-cv-00355-WTH-PRL

CARNELL DONALDSON,

Petitioner-Appellant,

versus

## WARDEN, FCI COLEMAN MEDIUM,

Respondent-Appellee.

Appeal from the United States District Court for the Middle District of Florida

(April 18, 2017)

Before TJOFLAT, WILLIAM PRYOR, and MARTIN, Circuit Judges.

PER CURIAM:

Carnell Donaldson, a federal prisoner proceeding prose, appeals the district

court's dismissal of his 28 U.S.C. § 2241 habeas corpus petition for a lack of

subject matter jurisdiction. Donaldson filed his § 2241 petition in July 2013. In it, he raised four claims: (1) he was actually innocent of offenses under 21 U.S.C. §§ 848(a), (b), and 841(b)(1)(A); (2) he was actually innocent of an offense under 21 U.S.C. § 848(b); (3) his rights under the Fifth and Sixth Amendments were violated due to his conviction under § 848(a); and (4) his Fifth Amendment right to not be subject to double jeopardy was violated by his convictions under 21 U.S.C. §§ 848 and 846. The district court denied Donaldson's § 2241 petition, pointing to his four earlier unsuccessful § 2255 petitions.

Ordinarily, collateral attacks on the validity of a federal conviction or sentence must be brought under § 2255. <u>Sawyer v. Holder</u>, 326 F.3d 1363, 1365 (11th Cir. 2003). However, under limited circumstances, the "saving clause" of § 2255(e) allows federal prisoners to challenge the validity of a federal conviction or sentence under § 2241 if an otherwise available remedy under § 2255 is "inadequate or ineffective to test the legality of his detention." <u>Id</u>. We review <u>de</u> <u>novo</u> whether a prisoner may bring a § 2241 petition under the saving clause of § 2255(e). <u>Williams v. Warden, Fed. Bureau of Prisons</u>, 713 F.3d 1332, 1337 (11th Cir. 2013).

Since Donaldson filed his appeal, this Court issued its decision in <u>McCarthan v. Director of Goodwill Industries-Suncoast, Inc.</u>, \_\_\_\_ F.3d \_\_\_\_, 2017 WL 977029 (11th Cir. Mar. 14, 2017) (en banc). In <u>McCarthan</u>, this Court held

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that "ordinary sentencing challenges" may not be brought under § 2241. <u>Id.</u> at \*11. Instead only claims that cannot be remedied at all by § 2255 could be brought under § 2241. <u>Id.</u> In other words, any "cognizable claim" that could have been brought under § 2255, even if circuit precedent or a procedural bar would have foreclosed the claim, cannot be brought under § 2241 in this circuit after <u>McCarthan. Id.</u> at \*7–8.

In light of <u>McCarthan</u>, the district court did not err in dismissing Donaldson's petition. Because all four of the claims raised in Donaldson's § 2241 petition could have been brought in a § 2255 motion to vacate, he has not met our circuit's requirements for the § 2255(e) saving clause necessary to bring a § 2241 petition. As a result, the district court did not have jurisdiction to consider Donaldson's § 2241 petition and we must affirm the denial of his petition.

## AFFIRMED.