

appeal. *United States v. Haque*, 315 Fed. App'x 510 (6th Cir. 2009).

The petitioner filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. Among other things, he asserted he was innocent of the crime of money laundering based on the intervening Sixth Circuit decision in *United States v. Kratt*, 579 F.3d 558 (6th Cir. 2009) and the Supreme Court's decision in *United States v. Santos*, 553 U.S. 507 (2008). This Court considered *Kratt* and *Santos* and found they did not present a basis to overturn the petitioner's money-laundering conviction. *Haque v. United States*, Case No. 1: 05 CR 182, 2011 WL 737319 (N.D. Ohio Feb. 24, 2011).

Petitioner now seeks relief pursuant to 28 U.S.C. § 2241, contending he is actually innocent of the money laundering conviction for which he is incarcerated based on *Kratt* and *Santos*.

Discussion

A district court conducts an initial review of *habeas corpus* petitions. 28 U.S.C. §2243; *Alexander v. Bureau of Prisons*, 419 Fed. App'x 544, 545 (6th Cir. 2011). The court must deny a petition on initial review if it plainly appears from the face of the petition that the petitioner is not entitled to relief. *Id.* The allegations in the petition are accepted as true and liberally construed in the petitioner's favor. *Urbina v. Thomas*, 270 F.3d 292, 295 (6th Cir. 2001).

The petitioner is not entitled to relief under 28 U.S.C. § 2241. The primary avenue of relief for a federal prisoner seeking to challenge a conviction or sentence is through a petition under 28 U.S.C. § 2255. Section 2241 is the appropriate avenue for a prisoner to challenge "the execution or manner in which [a prisoner's] sentence is served." *United States v. Peterman*, 249 F.3d 458, 461 (6th Cir. 2001). A savings clause in § 2255, 28 U.S.C. § 2255(e), provides a very limited exception and allows a federal prisoner to challenge his conviction or sentence under § 2241 only if § 2255 "is


inadequate or ineffective to test the legality of [his] detention.” *Terrell v. U.S.*, 564 F.3d 442, 447 (6th Cir. 2009). However, § 2255 relief is not inadequate or ineffective merely because § 2255 relief has been denied, the petitioner is procedurally barred from pursuing § 2255 relief, or the petitioner has been denied permission to file a second or successive § 2255 motion. *Barnes v. United States*, 102 Fed. App’x 441, 443 (6th Cir. 2004). The savings clause has been applied to allow a § 2241 petition only where a petitioner demonstrates “actual innocence based upon Supreme Court decisions announcing new rules of statutory construction unavailable for attack under section 2255.” *Hayes v. Holland*, 473 Fed. App’x 501, 501-02 (6th Cir. 2012).

The petitioner had the opportunity to, and in fact did, challenge his money laundering conviction on the basis of *Santos* and *Kratt* in his § 2255 petition. Accordingly, his § 2255 remedy was not “inadequate or ineffective” to test the validity of that conviction and he cannot seek *habeas* relief under § 2241.

Conclusion

For the reasons stated above, the pending petition for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2241 is denied and this action is dismissed. The Court further certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.



DONALD C. NUGENT
UNITED STATES DISTRICT JUDGE

Dated: September 8, 2015