

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

December 23, 2010

No. 10-60455
Summary Calendar

Lyle W. Cayce
Clerk

JUAN CALDERON,

Petitioner-Appellant

v.

STATE OF FLORIDA; BILL MCCOLLUM, State Attorney General; DAVA J.
TUMS, Circuit Judge,

Respondents-Appellees

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 5:10-CV-68

Before JONES, Chief Judge, and SMITH and CLEMENT, Circuit Judges.

PER CURIAM:*

Juan Calderon, federal prisoner # 38672-060, appeals from the district court's dismissal of his petition invoking 28 U.S.C. § 2241. The district court recharacterized Calderon's petition as a petition for a writ of mandamus because Calderon was requesting that the district court issue an order directing a Florida state court in the performance of its duties. Because Calderon did not challenge the manner in which his federal sentence was being executed, the district court

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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did not err in recharacterizing Calderon's § 2241 petition as a petition for a writ of mandamus. *See Warren v. Miles*, 230 F.3d 688, 694 (5th Cir. 2000) ("Section 2241 . . . is the proper habeas remedy for challenging the execution of a sentence."). Nor did the district court err in dismissing it. *See Moye v. Clerk, De Kalb County Superior Court*, 474 F.2d 1275, 1275-76 (5th Cir. 1973) ("[A] federal court lacks the general power to issue writs of mandamus to direct state courts and their judicial officers in the performance of their duties where mandamus is the only relief sought.").

Calderon's request that we vacate and remand for an evidentiary hearing is DENIED. To the extent that Calderon requests mandamus relief from this court, the request also is DENIED.

AFFIRMED.