

United States Court of Appeals
For the Eighth Circuit

No. 21-1747

Charles W. Pollock, Jr.

Petitioner - Appellant

v.

Warden Steve Kallis, FMC Rochester

Respondent - Appellee

Appeal from United States District Court
for the District of Minnesota

Submitted: September 2, 2021

Filed: September 8, 2021

[Unpublished]

Before BENTON, KELLY, and ERICKSON, Circuit Judges.

PER CURIAM.

Charles Pollock appeals after the district court¹ dismissed his 28 U.S.C. § 2241 petition, which sought relief based on Rehaif v. United States, 139 S. Ct. 2191, 2200 (2019) (holding that for felon-in-possession offense, the government must prove a defendant knew they belonged to category of persons barred from possessing firearms). We are bound by this court’s decision in Jones v. Hendrix that a petitioner cannot employ § 2241 to raise a claim under Rehaif when he could have raised a Rehaif-style argument either on direct appeal or in his initial 28 U.S.C. § 2255 motion, even if circuit precedent “was at that time against him” because he “could have succeeded before the en banc court or before the Supreme Court.” Jones v. Hendrix, -- F.4th --, 2021 WL 3435542, at *2–3 (8th Cir. Aug. 6, 2021). As such, after careful review, we conclude that the district court did not have jurisdiction over Pollock’s § 2241 petition. We further conclude that the district court did not abuse its discretion in denying Pollock’s motion to strike. See Dall v. United States, 957 F.2d 571, 572 (8th Cir. 1992) (per curiam) (standard of review).

Accordingly, we affirm. See 8th Cir. R. 47B. We also grant Pollock’s pending motion to supplement the record and deny his motion for a court order.

¹The Honorable Nancy E. Brasel, United States District Judge for the District of Minnesota, adopting the report and recommendation of the Honorable Tony L. Leung, United States Magistrate Judge for the District of Minnesota.