

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION**

TIMOTHY HATTEN,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No.: 1:14-cv-0739-MHH-SGC
	)	
JOHN T. RATHMAN,	)	
	)	
Respondent.	)	

**MEMORANDUM OPINION**

On April 28, 2014, the magistrate judge filed a report and recommended that the Court dismiss without prejudice the petition for a writ habeas corpus that Timothy Hatten filed. (Doc. 3). The magistrate judge concluded that, although the petition invokes 28 U.S.C. § 2241, Mr. Hatten is challenging his conviction and sentence imposed by the United States District Court for the Southern District of Florida. (*Id.*). Accordingly, the magistrate judge construed the petition under 28 U.S.C. § 2255. Because a prisoner must pursue a § 2255 motion before the sentencing court, the magistrate judge found that this Court lacks jurisdiction over Mr. Hatten’s petition. (*Id.*).

In response to the magistrate judge’s report and recommendation, Mr. Hatten filed a document entitled “Petitioner’s Petition as a Matter of Law Moves to Correct Clear Manifest Erroneous Error of Law Moves Honorable Chieftain United States District Court Justice Sharon Lovelace Blackburn, to Rescind and

Revoke Magistrate Erroneous (R&R).” (Doc. 4).<sup>1</sup> The Court will construe this filing as Mr. Hatten’s objection to the magistrate judge’s report and recommendation or, alternatively, as a motion.

Mr. Hatten contends that the magistrate judge did not employ the forgiving pleading standard for *pro se* litigants which the United States Supreme Court enunciated in *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972). (Doc. 4 at 2-3). Consistent with the *Haines* decision, this Court has held Mr. Hatten’s petition “to less stringent standards than formal pleadings drafted by lawyers.” *Haines*, 404 U.S. at 520-21. Nevertheless, even under this relaxed pleading standard, the Court concludes that Mr. Hatten is challenging his conviction and sentence, such that his petition arises under 28 U.S.C. § 2255 rather than 28 U.S.C. § 2241. Consequently, Mr. Hatten must seek relief in the Southern District of Florida; this Court lacks jurisdiction over his petition.

Having carefully reviewed and considered *de novo* all the materials in the court file, the Court **ADOPTS** the magistrate judge’s report and **ACCEPTS** her recommendation. To the extent that Mr. Hatten’s most recent filing (Doc. 4) contains objections to the report and recommendation, the objections are

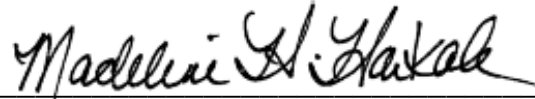
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<sup>1</sup> Although Mr. Hatten addressed his filing to the Honorable Sharon Lovelace Blackburn, this case was randomly assigned to the undersigned judge who serves as a district court judge for the United States District Court for the Northern District of Alabama.

**OVERRULED.** To the extent that the filing (Doc. 4) is a motion, the motion is **DENIED.** Accordingly, the petition is **DENIED WITHOUT PREJUDICE.**

A final judgment will be entered.

**DONE** and **ORDERED** this June 17, 2014.

A handwritten signature in black ink, reading "Madeline H. Haikala". The signature is written in a cursive style with a horizontal line underneath it.

**MADELINE HUGHES HAIKALA**  
**UNITED STATES DISTRICT JUDGE**