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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN MICHAEL CRIM,)	1:09-CV-01944 OWW GSA HC
Petitioner,)	FINDINGS AND RECOMMENDATION
v.)	REGARDING PETITION FOR WRIT OF
)	HABEAS CORPUS PURSUANT TO 28
)	U.S.C. § 2241
NEIL H. ADLER, Warden,)	
Respondents.)	

Petitioner is a federal prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

Petitioner is in the custody of the Bureau of Prisons at the Taft Correctional Institution located in Taft, California, for convictions sustained in the United States District Court for the Eastern District of Pennsylvania. On November 5, 2009, Petitioner filed the instant petition for writ of habeas corpus.

DISCUSSION

A federal prisoner who wishes to challenge the validity or constitutionality of his conviction or sentence must do so by way of a motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255. Tripati v. Henman, 843 F.2d 1160, 1162 (9th Cir.1988); Thompson v. Smith, 719 F.2d 938, 940 (8th Cir.1983); In re Dorsainvil, 119 F.3d 245, 249 (3rd 1997); Broussard v. Lippman,

1 643 F.2d 1131, 1134 (5th Cir.1981). In such cases, *only the sentencing court has jurisdiction*.
2 Tripati, 843 F.2d at 1163. A prisoner may not collaterally attack a federal conviction or sentence by
3 way of a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Grady v. United States,
4 929 F.2d 468, 470 (9th Cir.1991); Tripati, 843 F.2d at 1162; see also United States v. Flores, 616
5 F.2d 840, 842 (5th Cir.1980).

6 In contrast, a federal prisoner challenging the manner, location, or conditions of that
7 sentence's execution must bring a petition for writ of habeas corpus under 28 U.S.C. § 2241.
8 Capaldi v. Pontesso, 135 F.3d 1122, 1123 (6th Cir. 1998); United States v. Tubwell, 37 F.3d 175,
9 177 (5th Cir. 1994); Kingsley v. Bureau of Prisons, 937 F.2d 26, 30 n.5 (2nd Cir. 1991); United
10 States v. Jalili, 925 F.2d 889, 893-94 (6th Cir. 1991); Barden v. Keohane, 921 F.2d 476, 478-79 (3rd
11 Cir. 1991); United States v. Hutchings, 835 F.2d 185, 186-87 (8th Cir. 1987); Brown v. United
12 States, 610 F.2d 672, 677 (9th Cir. 1990).

13 In this case, Petitioner was found guilty on two counts, and he was sentenced to “96 months
14 on counts one and two of the superseding indictment concurrently.” See Petition, Exhibit A.
15 Petitioner claims the sentence he received is illegal because it is not plain, unequivocal, articulate or
16 identifiable. He asserts that the maximum sentence on count one is 60 months and the maximum on
17 count two is 36 months. He claims the sentence he was given of 96 months is incorrect and should
18 actually reflect a maximum of 60 months. Because he alleges error in his sentence, and not in the
19 administration of his sentence, the Court finds that Petitioner is not entitled to relief under § 2241,
20 and his petition should be dismissed. Should the Petitioner wish to pursue his claims, he must do so
21 by way of a motion to vacate, set aside, or correct the sentence pursuant to 28 U.S.C. § 2255.¹ The
22 petition must be dismissed.

23 RECOMMENDATION

24 Accordingly, the Court RECOMMENDS that the petition for writ of habeas corpus be
25 DISMISSED because the petition does not allege grounds that would entitle Petitioner to relief under
26

27 ¹A petition for writ of habeas corpus pursuant to § 2255 *must be filed in the court where petitioner was originally*
28 *sentenced*. In this case, Petitioner challenges his sentence sustained in the U.S. District Court for the Eastern District of
Pennsylvania.

