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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER LICONA,  
  
Petitioner,  
  
v.  
  
NEIL MCDOWELL,  
  
Respondent.

Case No.: 16CV3065-JLS-KSC

**ORDER DISMISSING PETITION FOR  
WRIT OF HABEAS CORPUS UNDER 28  
U.S.C. § 2241**

On December 19, 2016, Petitioner Christopher Licona filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 (ECF No. 1). At the time the petition was filed, Petitioner was a prisoner at Ironwood State Prison in Riverside County, California. According to the Federal Bureau of Prisons inmate locator website, Petitioner is currently in federal custody in Phoenix, Arizona.

On May 8, 2009, Petitioner was sentenced by this Court to a term of 30 months' imprisonment for the offense of bringing in illegal aliens without presentation in violation of 8 U.S.C. § 1324.<sup>1</sup> Petitioner seeks to modify the sentence imposed by this Court so that the term of imprisonment will run concurrent to the sentence for which Petitioner was serving in state court custody.

There are several legal barriers to Petitioner's request. First, Petitioner's request appears to be moot as he is no longer in state court custody. Second, a petition for habeas

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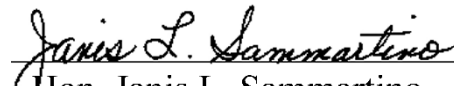
<sup>1</sup> California Southern District Case No. 08CR4581-JLS.

1 corpus relief pursuant 28 U.S.C. § 2241 is not a remedy available to Petitioner on these  
2 grounds or in this forum. 28 U.S.C. § 2241 is applicable to claims challenging the  
3 manner, location, or execution of the sentence and such claims must be brought in the  
4 district of confinement. *Hernandez v. Campbell*, 204 F.3d 861, 864 (9<sup>th</sup> Cir. 2000).

5 Although a convicted defendant who is still federal custody and claims that his  
6 sentence was imposed in violation of the Constitution may move to have his sentence  
7 vacated, set aside, or corrected under 28 U.S.C. § 2255, Petitioner is not challenging the  
8 legality of the sentence imposed by this Court. Thus, the Court cannot construe the  
9 petition as a motion under 28 U.S.C. § 2255. For these reasons, the Court will hereby  
10 **Dismiss** the petition for lack of jurisdiction.

11 IT IS SO ORDERED.

12 Dated: June 7, 2018

  
13 Hon. Janis L. Sammartino  
14 United States District Judge

15 COPY:

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