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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 WILLIE JONES, JR.,

12 Plaintiff,

13 v.

14 ROBERT O. GARCIA, JR.,

15 Defendant.

Case No.: 18-cv-0337-WQH-KSC

ORDER

16 HAYES, Judge:

17 On February 12, 2018, Petitioner Willie Jones, Jr. filed a Petition for a Writ of
18 Habeas Corpus under 28 U.S.C. § 2241 (ECF No. 1) (the “Petition”). On April 4, 2018,
19 the United States filed a Response and Motion to Dismiss the Petition. (ECF No. 8).

20 On June 23, 2016, Jones was indicted on three counts of transportation of aliens in
21 violation of 8 U.S.C. 1324(a)(1)(A)(ii). *United States v. Jones*, 16-cr-1448-WQH, ECF
22 No. 13. On November 8, 2017, a jury found Jones guilty of all three counts. *United States*
23 *v. Jones*, 16-cr-1448-WQH, ECF No. 123. On February 27, 2018, this Court sentenced
24 Jones to twenty-one months in custody and three years of supervised release. *United States*
25 *v. Jones*, 16-cr-1448-WQH, ECF No. 163. On March 2, 2018, Jones filed an Amended
26 Notice of Appeal “to the United States Court of Appeals for the Ninth Circuit from this
27 Court’s judgment (entered on February 28, 2018), the jury’s verdict (entered on November
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1 8, 2017), and the sentence that this Court imposed on February 27, 2018.” *United States*
2 *v. Jones*, 16-cr-1448-WQH, ECF No. 167.

3 The Petition brought under 28 U.S.C. § 2241 challenges “[t]he validity of [Jones’s]
4 conviction or sentence as imposed.” (ECF No. 1 at 2). However, “[i]n general, [28 U.S.C.]
5 § 2255 provides the exclusive procedural mechanism by which a federal prisoner may test
6 the legality of detention.” *Loretsen v. Hood*, 223 F.3d 950, 953 (9th Cir. 2000). The
7 Court will construe the Petition as a petition for habeas corpus under § 2255 because the
8 Petition challenges “[t]he validity of [Jones’s] conviction or sentence as imposed.” (ECF
9 No. 1 at 2).

10 The Court of Appeals has instructed district courts to refrain from hearing a petition
11 brought under § 2255 until after petitioner has exhausted his right to direct appellate
12 review. *United States v. LaFromboise*, 427 F.3d 680, 686 n.9 (9th Cir. 2005), *amended*,
13 No. 03-35853, 2005 WL 3312694 (9th Cir. Dec. 8, 2005). Jones’s appeal of his judgment,
14 verdict, and sentence is currently pending before the Court of Appeals. *See United States*
15 *v. Jones*, 16-cr-1448-WQH, ECF No. 167. Accordingly, the Court declines to consider the
16 Petition at this time.

17 The Motion to Dismiss the Petition (ECF No. 8) is GRANTED. The Petition (ECF
18 No. 1) is DISMISSED WITHOUT PREJUDICE.

19 Dated: April 12, 2018

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21 Hon. William Q. Hayes
22 United States District Court
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