

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION**

**CASTER DELANEY WHETSTONE,**

**Petitioner,**

**v.**

**Case No: 5:21-cv-289-WFJ-PRL**

**WARDEN, FCC COLEMAN –  
LOW,**

**Respondent.**

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**ORDER DISMISSING CASE**

Petitioner, proceeding *pro se*, initiated this case by filing a Petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. (Doc. 1). Petitioner challenges his conviction claiming he was “denied his right to effective assistance of counsel during these proceedings.” *Id.* at 7.

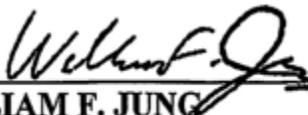
Rule 12(h)(3) of the Federal Rules of Civil Procedure provides that “[i]f the court determines at any time that it lacks subject matter jurisdiction, the court must dismiss the action.” *See also* Rule 12, Rules Governing Section 2255 proceedings. The Eleventh Circuit, sitting *en banc*, overruled prior precedent and held that 28 U.S.C. § 2241 is not available to challenge the validity of a sentence except on very narrow grounds not present in this case. *McCarthan v. Director of Goodwill Industries-Suncoast, Inc.*, 851 F.3d 1076, 1079 (11th Cir. 2017) (*en banc*) (quoting 28 U.S.C. § 2255(e));

*Bernard v. FCC Coleman Warden*, 686 F. App'x 730 (11th Cir. 2017) (citing *McCarthan*, 851 F.3d at 1092-93).

Thus, pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings for the United States District Courts (directing *sua sponte* dismissal if the petition and records show that the moving party is not entitled to relief), this case is **DISMISSED**. *See also* 28 U.S.C. § 2255(b). The **Clerk** is directed to enter judgment dismissing this case without prejudice, terminate any pending motions, and close the file.

**IT IS SO ORDERED.**

**DONE AND ORDERED** at Tampa, Florida, on July 19, 2021.

  
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**WILLIAM F. JUNG**  
**UNITED STATES DISTRICT JUDGE**

Copies to: Pro Se Petitioner