

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,

Respondent/Plaintiff,

v.

PATRICK WALSH,

Petitioner/Defendant.

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Criminal No. RWT-05-001
Related Civil No. RWT-15-3060

MEMORANDUM OPINION

Before the Court is Petitioner’s Motion to Modify Pursuant to 28 U.S.C. § 1651(a). ECF No. 427. Petitioner’s Motion will be denied because his claim is meritless. The All Writs Act is not applicable to Petitioner’s case.

I. ANALYSIS

The All Writs Act¹ allows federal courts to issue any commands that are “necessary or appropriate to effectuate and prevent the frustration of orders [the court] has previously issued in its exercise of jurisdiction otherwise obtained.” *United States v. New York Tel. Co.*, 434 U.S. 159, 172 (1977). Writs issued under the All Writs Act, such as a writ of mandamus, are “extraordinary” and are reserved for “extraordinary cases.” *Platt v. Minnesota Min. & Mfg. Co.*, 376 U.S. 240, 245 (1964).

Because of the nature of All Writs Act orders, “[w]here a statute specifically addresses the particular issue at hand, it is that authority, and not the All Writs Act, that is controlling.” *Pennsylvania Bureau of Correction v. U.S. Marshals Serv.*, 474 U.S. 34, 43 (1985). Thus, where

¹ The Act provides, “The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.” 28 U.S.C. § 1651(a)

a prisoner could bring a cognizable challenge to his sentence under 28 U.S.C. § 2255, relief cannot be sought under the All Writs Act. *Ortiz v. United States*, 555 F. App'x 261, 262 (4th Cir. 2014) (“[P]risoners may not resort to such writs when their challenges would be cognizable under § 2255 or to otherwise circumvent the statutory limits on collateral attacks.”). Even where a challenge under § 2255 is procedurally barred, a prisoner may not proceed to challenge his sentence under the All Writs Act. *Id.*

Petitioner has already brought a challenge to his sentence under 28 U.S.C. § 2255, which was denied. ECF Nos. 349 & 364. Petitioner appealed the denial and his appeal was also denied. ECF Nos. 369 & 373. The All Writs Act provides no additional relief for Petitioner, and therefore his current claim is meritless.

Petitioner’s Motion to Modify Pursuant to 28 U.S.C. § 1651(a) is denied. A separate Order follows.

Date: October 13, 2015

/s/
ROGER W. TITUS
UNITED STATES DISTRICT JUDGE