

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

RONALD DONALD GORDON,

Petitioner,

Case Number: 23-cv-11315

Judge Jonathan J.C. Grey

v.

E. RARDIN,

Respondent.

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**OPINION AND ORDER DISMISSING  
PETITION FOR WRIT OF HABEAS CORPUS**

Ronald Donald Gordon is a federal prisoner confined at the Federal Correctional Institution in Milan, Michigan. Gordon filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging his convictions for coercion and enticement of a minor and interstate travel with intent to engage in a sexual act with a minor which were entered by the Honorable Terrence G. Berg. The petition is not properly filed under § 2241 and will be dismissed.

**I. Background**

In 2018, Gordon pleaded guilty pursuant to a plea agreement to coercion and enticement of a minor, in violation of 18 U.S.C. § 2422(b),

and interstate travel with intent to engage in a sexual act with a minor, in violation of 18 U.S.C. § 2423(b). *See United States v. Gordon*, No. 2:17-cr-20636. Gordon was sentenced to 204 months in prison and eight years of supervised release. (*See* ECF No. 41 in No. 2:17-cr-20636.) Gordon did not file an appeal.

Gordon filed a motion to vacate his sentence under 28 U.S.C. § 2255, where he raised the same claims he brings in the present petition for a writ of habeas corpus. The motion to vacate sentence was denied. *United States v. Gordon*, No. 2:17-CR-20636-TGB, 2020 WL 7240903, at \*1 (E.D. Mich. Dec. 9, 2020). The Sixth Circuit Court of Appeals denied Gordon's application for a certificate of appealability. *Gordon v. United States*, No. 21-1018, 2021 WL 8084491, at \*2 (6th Cir. June 14, 2021).

Gordon then filed the present petition for a writ of habeas corpus seeking relief on the following grounds: (1) counsel was ineffective for failing to advance meritorious arguments to suppress evidence; (2) his Fifth Amendment right to due process of the law was violated by the police investigation, by referral of the case to Federal, rather than State, prosecutors; and by the presentation of illegally obtained evidence; (3) the statutes under which Gordon was convicted are

unconstitutional; (4) the district court lacked subject-matter and territorial jurisdiction; and (5) he did not knowingly and voluntarily enter into the plea agreement. These are the same grounds Gordon raised in his previous § 2255 motion. *Gordon*, 2020 WL 7240903.

## **II. Discussion**

Promptly after the filing of a petition for habeas corpus, the Court must undertake a preliminary review of the petition to determine whether it is apparent that the prisoner is not entitled to relief. Rule 4, Rules Governing § 2254 Cases (applicable to petitions under § 2241 pursuant to Rule 1(b)). If so, the petition must be summarily dismissed. Rule 4; *see Allen v. Perini*, 424 F.2d 134, 141 (6th Cir. 1970) (district court has the duty to “screen out” petitions that lack merit on their face). No response to a habeas petition is necessary when the petition is frivolous, obviously lacks merit, or where the necessary facts can be determined from the petition itself without consideration of a response from the State. *Allen*, 424 F.2d at 141.

A prisoner generally may challenge his federal conviction or imposition of sentence only by means of a motion under 28 U.S.C. § 2255. *Jones v. Hendrix*, 143 S. Ct. 1857, 1866 (2023). A § 2241 petition

for habeas corpus relief is ordinarily limited to challenges to the manner or execution of sentence. *See United States v. Jalili*, 925 F.2d 889, 893-94 (6th Cir. 1999) (“[A]n attack upon the execution of a sentence is properly cognizable in a 28 U.S.C. § 2241(a) habeas petition.”). Under § 2255, a federal prisoner may not file a second or successive motion unless the prisoner relies on either newly discovered evidence, § 2255(h)(1), or new law, § 2255(h)(2).

An exception known as the savings clause, *see* 28 U.S.C. § 2255(e), allows a prisoner to bring a successive habeas challenge to the validity of his conviction or sentence under § 2241 “if—and only if—§ 2255’s remedy by motion is ‘inadequate or ineffective to test the legality of his detention.’” *Jones*, 143 S. Ct. at 1864 (quoting 28 U.S.C. § 2255(e)). The savings clause allows a prisoner to seek successive postconviction relief through a § 2241 petition instead of a § 2255 motion only “where unusual circumstances make it impossible or impracticable to seek relief in the sentencing court.” *Id.* at 1869.

There is nothing in Gordon’s present petition to indicate newly discovered evidence, a change in the law, or unusual circumstances. Gordon raises the same claims here that he previously raised in his

original § 2255 motion. Because relief has already been denied on the same grounds in a previous § 2255 motion, Section 2255 is not inadequate or ineffective to test the legality of Gordon's detention. *See United States v. Peterman*, 249 F.3d 458, 461 (6th Cir. 2001) (citations omitted). Accordingly, Gordon has not met the requirements to proceed under the exception set forth in § 2255's savings clause.

There has been no showing for an exception to the bar on a successive § 2255 motions. And a successive petition that fails to satisfy the savings clause must be dismissed for lack of subject-matter jurisdiction. *See Taylor v. Owens*, 990 F.3d 493, 499-500 (6th Cir. 2021).

### **III. Conclusion**

Gordon has not shown that § 2255 is inadequate or ineffective to test his detention. The Court, therefore, lacks jurisdiction to decide his § 2241 petition. The petition for a writ of habeas corpus is

**DISMISSED.**

**SO ORDERED.**

**s/ Jonathan J.C. Grey**  
**JONATHAN J.C. GREY**  
**UNITED STATES DISTRICT JUDGE**

Dated: October 19, 2023

## **Certificate of Service**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First-Class U.S. mail addresses disclosed on the Notice of Electronic Filing on October 19, 2023.

s/ S. Osorio  
Sandra Osorio  
Case Manager