## UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

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DENNIS CRUMP,

Petitioner,

v.

Case No. 1:13-cv-1091 (Criminal Case No. 1:09-CR-73)

UNITED STATES OF AMERICA,

HON. GORDON J. QUIST

Respondent.

## **OPINION**

Petitioner, Dennis Crump, a federal prisoner, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner previously filed a Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, or Correct Sentence By a Person in Federal Custody. *See Crump v. United States*, No. 1:12-CV-768 (W.D. Mich.). On August 5, 2013, this Court entered an Opinion and a separate Order and Judgment dismissing Petitioner's § 2255 Motion as barred by the one-year statute of limitations. Petitioner did not appeal the Order and Judgment. Instead, Petitioner filed the instant petition under § 2241 on October 3, 2013, and filed an amended petition on October 18, 2013. Petitioner's amended § 2241 petition raises essentially the same ineffective assistance of counsel claims that Petitioner raised in his time-barred § 2255 Motion.

Section 2255(e) provides, in relevant part, that "[a]n application for a writ of habeas corpus in behalf of a prisoner who is authorized to apply for relief by [§ 2255] motion . . . shall not be entertained if it appears that . . . such court has denied him relief . . . ." Because the Court has already denied Petitioner relief under § 2255, Petitioner may not seek relief through a habeas corpus petition.

Section 2255(e) does provide an exception when "it also appears that the remedy by motion

is inadequate or ineffective to test the legality of [the petitioner's] detention." 28 U.S.C. § 2255(e).

However, Petitioner cannot show that his § 2255 remedy is inadequate or ineffective. "A prisoner's

remedy under § 2255 is not inadequate or ineffective merely because the prisoner is time-barred or

otherwise procedurally barred from seeking relief under § 2255, because the prisoner has already

filed one motion to vacate, or because the prisoner has been denied permission to file a second or

successive motion to vacate." Barnes v. Booker, 116 F. App'x 560, 561 (6th Cir. 2004) (citing

United States v. Peterman, 249 F.3d 458, 461 (6th Cir. 2001)). Moreover, Petitioner does not make

a claim of actual innocence. See Reminsky v. United States, 523 F. App'x 327, 328 (6th Cir. 2013)

("To date, the savings clause has only been applied to claims of actual innocence based upon

Supreme Court decisions announcing new rules of statutory construction unavailable for attack

under § 2255.") (citing Martin v. Perez, 319 F.3d 799, 804–05 (6th Cir. 2003), and Peterman, 249

F.3d at 461–62).

Therefore, Petitioner's petition for writ of habeas corpus under § 2241 must be dismissed

for lack of subject matter jurisdiction. See Id. at 329.

An Order consistent with this Opinion will enter.

Dated: November 5, 2013

/s/ Gordon J. Quist

GORDON J. OUIST

UNITED STATES DISTRICT JUDGE

2