

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

JOEL CARDENAS-MENESES

PETITIONER

V.

CIVIL ACTION NO. 3:18-CV-58-DPJ-FKB

WARDEN MARCUS MARTIN

RESPONDENT

ORDER

This habeas petition brought pursuant to 28 U.S.C. § 2241 is before the Court on the unopposed Report and Recommendation (“R&R”) [15] of United States Magistrate Judge F. Keith Ball. Judge Ball recommends dismissal of Petitioner Joel Cardenas-Meneses’s Petition for lack of jurisdiction. In particular, Judge Ball notes that a challenge to an underlying conviction must be brought under 28 U.S.C. § 2255 in the court of conviction rather than as a § 2241 petition in the district of incarceration. And Judge Ball explains that Cardenas-Meneses’s Petition does not establish that a remedy under § 2255 is inadequate or unavailable so as to fall within the “savings clause” exception of § 2255. Cardenas-Meneses failed to file objections to the R&R, and the time to do so has now expired.

The Court, having fully reviewed the unopposed R&R, and being advised in the premises, finds that the R&R should be adopted as the opinion of the Court.

It is, therefore, ordered that the Report and Recommendation [15] of United States Magistrate Judge F. Keith Ball be, and the same is hereby, adopted as the finding of the Court. The Petition is dismissed. A separate final judgment will be entered in accordance with Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED this the 13th day of November, 2018.

s/ Daniel P. Jordan III

CHIEF UNITED STATES DISTRICT JUDGE