

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

DARREN THOMAS, )  
 )  
Petitioner, )  
 )  
v. ) No. 4:12CV2248 JCH  
 )  
UNITED STATES OF AMERICA, )  
 )  
Respondent. )

**MEMORANDUM AND ORDER**

This matter is before the Court on petitioner's petition for writ of error coram nobis. Petitioner, a prisoner at Memphis Federal Correctional Institution, seeks to overturn his conviction on the basis that he was denied his Sixth Amendment right to counsel.

Coram nobis is not intended to be a substitute for proceedings brought pursuant to 28 U.S.C. § 2255. See U.S. v. Noske, 235 F.3d 405, 406 (8th Cir. 2000); United States v. Morgan, 346 U.S. 502, 511 (1954). A writ of coram nobis is available only when the applicant is not in custody. U.S. v. Esogbue, 357 F.3d 532, 534 (5th Cir. 2004); U.S. v. Torres, 282 F.3d 1241, 1245 (10th Cir. 2002). Because petitioner is currently incarcerated, the petition must be dismissed.

Accordingly,

**IT IS HEREBY ORDERED** that petitioner's petition for writ of error coram nobis is **DISMISSED**.

Dated this 10th day of December, 2012.

/s/Jean C. Hamilton  
JEAN C. HAMILTON  
UNITED STATES DISTRICT JUDGE