

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

GORDON FRANKLIN, JR.,)
)
Petitioner,)
)
v.) No. 4:13CV1548 RWS
)
ATTORNEY GENERAL,)
)
Respondent.)

MEMORANDUM AND ORDER

This matter is before me on petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. This Court lacks jurisdiction to grant the writ, and I will summarily dismiss it.

Petitioner was formerly confined at Springfield MCFP in Springfield, Missouri. However, before petitioner filed the instant case, he was released from confinement.

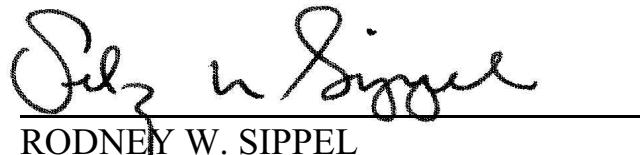
District courts have jurisdiction to entertain petitions for habeas relief only from persons who are "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). The custody requirement is fulfilled when a petitioner is in custody "under the conviction or sentence under attack at the time his petition is filed." Maleng v. Cook, 490 U.S. 488, 490-91 (1989). Where, as is the case here, the sentence under challenge has fully expired, the custody requirement is not met. Id. As a result, the Court does not have jurisdiction over the

petition, and it will be summarily dismissed. See Fed. R. Civ. P. 12(h)(3); Rule 4 of the Rules Governing § 2254 Cases.

Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice.

Dated this 14th day of August, 2013.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE