

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

DEMETRIUS RICHMOND,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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No. 4:20-CV-1613-SEP

MEMORANDUM AND ORDER

This matter is before the Court on review of self-represented Petitioner Demetrius Richmond's "Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241." Despite its title, Petitioner's application seeks to vacate, set aside, or correct his federal sentence pursuant to 28 U.S.C. § 2255. The Court will order Petitioner to refile his motion on a court-provided form for a § 2255 motion and will transfer this case to the Honorable Rodney W. Sippel.

Petitioner, a federal prisoner, seeks to modify the sentence imposed upon him on September 8, 2020, by the Honorable Rodney W. Sippel in *United States v. Richmond*, 4:17-CR-372-RWS-1 (E.D. Mo.) (Doc. [157]). "A petitioner who seeks to challenge his sentence or conviction generally must do so in the sentencing court through § 2255 and cannot use § 2241 to challenge the conviction without first showing that § 2255 would be inadequate or ineffective." *Abdullah v. Hedrick*, 392 F.3d 957, 959 (8th Cir. 2004). Petitioner has made no showing that § 2255 is inadequate or ineffective to test the legality of his conviction or sentence. Therefore, the Court will construe Petitioner's motion, nominally brought under § 2241, to be a motion to vacate, set aside, or correct sentence brought under 28 U.S.C. § 2255. See 28 U.S.C. § 2255(a).

Petitioner's § 2255 motion is defective, however, because he did not draft it on the court-provided form. Under Eastern District of Missouri Local Rule 2.06(A), the Court may require a petitioner to file the action on a court-provided form, and the petitioner must include on the form each of his grounds for relief. The Court will order the Clerk of Court to provide Petitioner with a court-ordered form for a § 2255 motion. Petitioner must complete the form, sign it, and return it to the Court no later than twenty-one (21) days from the date of this Order. If Petitioner fails to comply with this Order, the Court may dismiss this case without prejudice. Finally, as is the practice in this Court, Petitioner's § 2255 motion will be transferred to the Honorable Rodney W. Sippel, who presided over Petitioner's underlying federal criminal action, *United States v. Richmond*, 4:17-CR-372-RWS-1 (E.D. Mo.). See 28 U.S.C. § 2255(a).

IT IS HEREBY ORDERED that the Clerk shall mail to Petitioner a copy of the Court's form motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255.

IT IS FURTHER ORDERED that Petitioner shall complete the form, sign it, and return it to the Court no later than twenty-one (21) days from the date of this Order.

IT IS FURTHER ORDERED that if Petitioner fails to comply with this Order, the Court will dismiss this action without prejudice.

IT IS FINALLY ORDERED that the Court shall transfer this § 2255 case to the Honorable Rodney W. Sippel, who presided over Petitioner's underlying federal criminal proceeding, *United States v. Richmond*, 4:17-CR-372-RWS-1 (E.D. Mo.).

Dated this 19th day of November, 2020.



SARAH E. PITLYK
UNITED STATES DISTRICT JUDGE