

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:11-cv-00603-RJC  
(3:06-cr-00363-RJC-3)

GERALD ADRIAN WHEELER, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** is before the Court on consideration of Petitioner’s unopposed motion for reconsideration of the order denying his petition for relief from his sentence which he filed pursuant to 28 U.S.C § 2241. (3:11-cv-00603, Doc. No. 17: Order; Doc. No. 19: Unopposed Motion for Reconsideration).

Petitioner contends that relief was denied based on the Fourth Circuit’s opinion in United States v. Surratt, 797 F.3d 240 (4th Cir. 2015), however that is plainly not the case. The Court denied the § 2241 petition based on the holding in In re Jones which found that relief from a sentencing enhancement under § 2241 is allowed only when:

- (1) at the time of conviction settled law of this circuit or the Supreme Court established the legality of the conviction;
- (2) subsequent to the prisoner’s direct appeal and first § 2255 motion, the substantive law changed such that the conduct of which the prisoner was convicted is deemed not to be criminal; and
- (3) the prisoner cannot satisfy the gatekeeping provisions of § 2255 because the new rule is not of one of constitutional law.


In re Jones, 226 F.3d 328. 333-34 (4th Cir. 2000)

For the reasons stated in the Court's Order, (Doc. No. 17), the motion for reconsideration is denied.

**IT IS, THEREFORE, ORDERED** that Petitioner's motion for reconsideration is **DENIED.** (Doc. No. 19).

**SO ORDERED.**

Signed: January 20, 2016

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.  
United States District Judge

