**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:12cv118
[3:04cr121]**

RODNEY FUNDERBURK,)	
)	
Petitioner,)	
)	
)	
Vs.)	**ORDER**
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

THIS MATTER is before the court on the government's Motion to Dismiss Defendant's § 2255 Motion. On February 29, 2012, the court terminated petitioner's supervised release, making him no longer under the judgment of this court in criminal action 3:04cr121. Thus, petitioner is no longer "in custody under sentence of a court" and, therefore, does not meet the in-custody requirements of 28 U.S.C. § 2255(a). The court will, therefore, dismiss the § 2255 and § 2241 claims.

Petitioner has also included in his § 2255 petition a request for alternative relief based on *coram nobis*. At the SRV hearing, the court inquired of counsel concerning the impact satisfaction of the court's criminal judgment would have on the pending civil action. Neither counsel nor petitioner indicated any desire to further pursue such matter. While a motion for issuance of a writ of *coram nobis* has no custodial requirement, such motion is intertwined with the motion seeking relief under Sections 2255 and 2241, which is no longer viable. While the court has no indication that petitioner desires to pursue *coram nobis* relief, the court will, in an abundance of caution, dismiss such motion without prejudice.
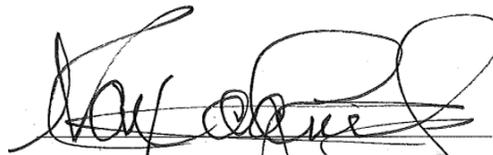
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ORDER

IT IS, THEREFORE, ORDERED that

1.   Respondent's Motion to Dismiss Defendant's § 2255 Motion is **ALLOWED**, and the § 2255 and § 2241 claims are **DISMISSED** as moot; and

2.   Petitioner's claim seeking *coram nobis* relief is **DISMISSED** without prejudice.

The Clerk of Court is instructed to terminate this civil action.

Signed: March 1, 2012

Max O. Cogburn Jr.
United States District Judge