

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

Kelvin Groves,)
Petitioner,) C/A No. 5:13-1367-TMC
v.)
Kenny Atkinson, Warden,)
Respondent.)

ORDER

Petitioner, a federal prisoner proceeding pro se, filed this action pursuant to 28 U.S.C. § 2241, challenging a federal sentence imposed by the United States District Court for the District of South Carolina.

In a prior order, (ECF No. 22), the court determined that the instant petition should be converted to a motion under § 2255 and, accordingly, gave Petitioner an opportunity to express his consent to the conversion or to withdraw or amend his petition. *See Castro v. United States*, 540 U.S. 375, 383 (2003). The court also informed Petitioner that second or successive motions under § 2255 generally are prohibited, and would have to be certified by a panel of the Fourth Circuit Court of Appeals under limited circumstances. *See 28 U.S.C. § 2255(h)*. Petitioner was ordered to file a response to the court's Order by August 6, 2013, indicating whether he consents to having his petition converted to a § 2255 motion. Petitioner filed a response on August 1, 2013, consenting to the conversion. (ECF No. 25).

Therefore, based on the foregoing, it is **ORDERED** that the Petitioner's § 2241 Petition is recharacterized as a § 2255 motion, and the Clerk of Court shall close this case and file this

motion in Petitioner's criminal case, *United States v. Groves*, Criminal No. 8:11-2356-JMC-5 (D.S.C.), for further proceedings.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Anderson, South Carolina
August 5, 2013