IN THE UNITED STATES SUPREME COURT

Craig A. Toaz,
Petitioner

v.

United States of America

SHORT APPENDIX

Appendix A; Original Judgment and Committment Order

Appendix B; Judgment and Opinion to Appellant's 28 USC §2241 Motion.

Appendix C; Judgment and Opinion to Appellant's current 28 USC 2255 Motion.

Appendix D; Judgment and Opinion; Sixth Circuit Court of Appeals.

APPENDIX A

United States District Court

Western District of Michigan

UNITED STATES OF AMERICA

V.

CRAIG ALAN TOAZ
a/k/a "Toe"

AMENDED**
JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Case Number: 1:97:CR:161-01

Dennis R. Carlson
Defendant's Attorney

THE DEFENDANT:
- ☐ pleaded guilty to Count
- ■ was found guilty on Counts One, Two, Three, and Seven after pleas of not guilty.

Accordingly, the defendant is adjudged guilty of such counts, which involve the following offenses:

Title & Section	Date Offense Concluded	Count Number(s)
18 U.S.C. § 371	December 31, 1995	One
21 U.S.C. §§ 846 and 841(a)(1)	December 31, 1995	Two
18 U.S.C. § 2315	December 31, 1995	Three
18 U.S.C. § 922(g)(1)	December 31, 1995	Seven

Nature of Offense:

Count One: Conspiracy to Commit Offenses or to Defraud the United States
Count Two: Conspiracy to Distribute and Possess With Intent to Distribute Methamphetamine
Count Three: Sale or Receipt of Stolen Goods, Securities, Moneys, or Fraudulent State Tax Stamps
Count Seven: Felon in Possession of a Firearm

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s) , and is discharged as to such count(s).

- ☐ Count(s) (is)(are) dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Date of Imposition of Sentence: June 14, 2000

Defendant's Soc. Sec. No.: 366-52-9123
Defendant's Date of Birth: July 21, 1957
US Marshal's No.: 07990-040

Defendant's Address:
Currently Incarcerated

Certified as a True Copy
Ronald C. Weston, Sr., Clerk
By _____
Deputy Clerk
U.S. District Court
Western Dist. of Michigan
Date 6/28/00

DATED: JUN 28 2000

HON. GORDON J. QUIST
U.S. DISTRICT JUDGE

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **life**. This sentence consists of five years on Count One, life on Count Two, and ten years on Counts Three and Seven, such terms to run concurrently with each other and the defendant's imprisonment in the Northern District of Indiana, docket number 2:94:CR:0087-012.

☐ The court makes the following recommendations to the Bureau of Prisons:

■ The defendant is remanded to the custody of the United States marshal.
☐ The defendant shall surrender to the United States marshal for this district
  ☐ at a.m./p.m. on .
  ☐ as notified by the United States marshal.
☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.
  ☐ before 2 p.m. on .
  ☐ as notified by the United States marshal.
  ☐ as notified by the probation office.

RETURN

I have executed this judgment as follows:

_____

_____

_____

_____ Defendant delivered on _____ to _____

_____, with a certified copy of this judgment.

_____
United States Marshal

By_____
Deputy Marshal

APPENDIX B

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

CRAIG ALAN TOAZ,

Petitioner,

v. **Case No: 5:15-cv-102-Oc-10PRL**

WARDEN, FCC COLEMAN - USP II

Respondent.

JUDGMENT IN A CIVIL CASE

Decision by Court. This action came before the Court and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

Pursuant to the Court's Order entered on April 11, 2018 the Petition for Writ of Habeas Corpus is hereby denied.

ELIZABETH M. WARREN,
CLERK

s/L.Burget, Deputy Clerk

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

CRAIG ALAN TOAZ,

Petitioner,

v. Case No. 5:15-cv-102-Oc-10PRL

WARDEN, FCC COLEMAN - USP II,

Respondent.

ORDER DENYING PETITION

Petitioner, *pro se*, is a federal prisoner proceeding on a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. (Doc. 1). Petitioner argues that the Bureau of Prisons (BOP) erred in calculating his term of commitment by refusing to run his two federal sentences concurrently. (Docs. 1, 11, 17.) Respondent argues that the BOP properly calculated Petitioner's start date of his second federal sentence as the date it was imposed, June 14, 2000, with appropriate credit for 478 days of time served. (Docs. 10, 16.) For the reasons discussed below, the petition is denied.

Background

Petitioner is a federal inmate who was incarcerated at the Coleman Correctional Complex within this district and division at the time he filed his petition. There are two federal sentences at issue in this case:

> **Sentence 1**: a conviction in the United States District Court of the Northern District of Indiana for violation of 18 U.S.C. §§ 1952 and 2 (interstate travel in aid of racketeering and aiding abetting). **Petitioner was arrested on this charge on October 14, 1994 and sentenced November 14, 1995 to 60 months**

> **imprisonment**. (Doc. 16, Exh. 2, Attachment A.) See United States v. Toaz, Case No. 2:94-cr-87-13 (N.D. Ind.)
>
> **Sentence 2**: a conviction in the Western District of Michigan for violations of 18 U.S.C. § 371 (conspiracy to commit offenses or defraud the United States); 21 U.S.C. §§ 841(a)(1) and 846 (conspiracy to distribute methamphetamine); 18 U.S.C. § 2315 (possession of stolen property); and 18 U.S.C. § 922(g)(1) (felon in possession of a firearm). Petitioner was sentenced to **life in prison on June 14, 2000, "to run concurrently with . . . the defendant's imprisonment in the Northern District of Indiana, docket number 2:94:CR:0087-012."** (Doc. 16, Exh. 2, Attachment F.) **On May 6, 2016, Petitioner's sentence was reduced to 360 months imprisonment, with all other provisions of the previous judgment remaining in effect.**[1] (Id. at Attachment G.) See United States v. Toaz, Case No. 1:97-cr-161-01 (W.D. Mich.)

Petitioner was arrested and tried in the Sentence 2 case while serving Sentence 1. On January 16, 1998, the BOP temporarily released Petitioner to the United States Marshals Service for prosecution in his second federal case. On February 21, 1999, while in USMS custody and being prosecuted in his second case, Sentence 1 expired.

Petitioner is presently serving the 360-month sentence imposed in his Western District of Michigan case (Sentence 2). The BOP has calculated his release date as April 11, 2025, via good conduct time release. (Doc. 16, Exh. 2.) In calculating this date, the BOP commenced the 360-month sentence on June 14, 2000, the date it was imposed. Petitioner was given 478 days of prior custody credit

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[1] The present § 2241 petition was initiated in March 2015 and became ripe in September 2015. (Docs. 1, 10, 11.) Upon review of the file and learning that a sentence reduction had been granted, the Court ordered supplemental briefs. (Docs. 1, 15, 16, 17.) Although the Warden initially asserted an exhaustion defense (Doc. 10), he does not appear to have asserted this as to Petitioner's exhaustion after re-sentencing. (Doc. 16.)

from February 22, 1999, the day after he completed Sentence 1, through June 13, 2000, the day before Sentence 2 was imposed. (Id.)

Petitioner contends that because Sentence 2 was to run concurrent with Sentence 1, the BOP should calculate Sentence 2 to commence on October 14, 1994, the state he was arrested on the charges underlying Sentence 1. (Docs. 1, 11, 17.) Petitioner argues that the BOP is making the decision to run his sentences consecutively rather than concurrently, in violation of his due process rights. (Id.)

Discussion

An inmate may challenge the BOP's execution of his sentence in a petition pursuant to 28 U.S.C. § 2241. See, e.g., Antonelli v. Warden, 542 F.3d 1348, 1352 (11th Cir. 2008). The calculation of a prison term is governed by 18 U.S.C. § 3585:

> (a) Commencement of sentence.–A sentence to a term of imprisonment commences on the date the defendant is received in custody awaiting transportation to, or arrives voluntarily to commence service of sentence at, the official detention facility at which the sentence is to be served.
>
> (b) Credit for prior custody. –A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences–
>
> (1) as a result of the offense for which the sentence was imposed; or
>
> (2) as a result of any other charge for which the defendant was arrested after the commission of the offense for which the sentence was imposed;
>
> that has not been credited against another sentence.

The United States Court of Appeals for the Eleventh Circuit has considered and rejected the same arguments made by Petitioner. Coloma v. Holder, 445 F.3d 1282 (11th Cir. 2006). In Coloma, the petitioner was sentenced in two separate federal prosecutions, with the second sentence ordered to run concurrent with the first. (Id. at p. 1284.) The Eleventh Circuit stated:

> We must first determine the meaning of the word concurrent. Whatever else it means with regard to the second sentence, however, it does not mean that the two sentences 'hav[e] the same starting date because a federal sentence cannot commence prior to the date it is pronounced, even if made concurrent with a sentence already being served."

(Id.) (quoting United States v. Flores, 616 F. 2d 840, 841 (5th Cir. 1980)).

Similarly, Petitioner's argument that Sentence 2 should be calculated to start retroactively is meritless. Sentence 2 cannot have commenced prior to the date it was pronounced, **June 14, 2000.** By that time, Sentence 1 had already expired (on February 21, 1999), but Petitioner did receive credit for the time he spent in custody after February 21, 1999 and before June 14, 2000 (478 days). The BOP properly calculated Petitioner's sentence.

In his Supplemental Reply, Petitioner argues that the court in Sentence 2 meant to impose concurrent sentences pursuant to the Sentencing Guidelines. U.S.S.G. § 5G1.3(b). The Court in Coloma rejected this same argument, finding that because of the procedural posture of the case, it must assume that the sentence was correctly calculated and accounted for any relevant criminal conduct. Similarly, Petitioner cannot challenge his underlying 360-month sentence in the present §

2241 petition. Nor can this Court re-characterize his petition as one under § 2255 – his conviction occurred in the Western District of Michigan.[2]

Upon due consideration, the Court finds that the BOP has properly calculated Petitioner's sentence, and therefore the petition (Doc. 1) is **DENIED.**[3] The Clerk is directed to enter judgment accordingly, terminate any pending motions, and close the file.

IT IS SO ORDERED.

DONE AND ORDERED at Ocala, Florida, this 11th day of April 2018.

UNITED STATES DISTRICT JUDGE

[2] Further, Petitioner raised this challenge in the Sixth Circuit when he appealed from the order reducing his sentence. United States v. Toaz, Case No. 16-1648 (6th Cir. June 29, 2017). The Sixth Circuit rejected his argument that he should have been sentenced below the bottom of his new Guidelines range (360 months - Life) to account for the BOP's improper calculation of his sentence. (Id.)

[3] Petitioner's Privacy Act claim is without merit. He invokes 5 U.S.C. § 552a, stating that the BOP is in violation because it has willfully ignored the directive for him to have a concurrent sentence. (Doc. 1, p. pp. 15-16.) The Warden did not address this claim. (Doc. 10.) However, the BOP has, pursuant to the Privacy Act, exempted the records at issue from the accuracy provisions of the Act. See 5 U.S.C. § 552(a)(j)2); Martinez v. Bureau of Prisons, 444 F.3d 620, 624 (D.D.C. 2006).

APPENDIX C

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CRAIG ALAN TOAZ,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.
_____/

Case No. 1:18-CV-1193

HON. GORDON J. QUIST

ORDER DENYING § 2255 MOTION

In accordance with the Opinion filed today,

IT IS HEREBY ORDERED that Movant's Motion Under 28 U.S.C. § 2255 (ECF No. 1) is **DENIED**.

Dated: November 6, 2018

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CRAIG ALAN TOAZ,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.
_____/

Case No. 1:18-CV-1193

HON. GORDON J. QUIST

OPINION REGARDING § 2255 MOTION

Movant, Craig Alan Toaz, has filed a motion pursuant to 28 U.S.C. § 2255, alleging that the Bureau of Prisons (BOP) refuses to run his conviction entered by this Court concurrent with his conviction entered in an earlier case by the Northern District of Indiana. The factual and procedural background pertaining to the instant motion is as follows:

- In 1997, Toaz was sentenced in the Northern District of Indiana to 60 months imprisonment after pleading guilty to interstate travel in aid of racketeering and aiding and abetting. *See United States v. Toaz*, 59 F. App'x 94, 97 (6th Cir. 2003).

- On June 14, 2000, this Court sentenced Toaz to life in prison based on his convictions, following a jury trial, of conspiring to commit offenses against or to defraud the United States; conspiring to distribute and possess with intent to distribute methamphetamine; knowingly possessing stolen property valued at over $5,000; and being a felon in possession of a firearm. In particular, this Court sentenced Toaz to concurrent terms of life for the drug charge, five years for the fraud charge, and ten years for the theft and firearms charges. *Id.* at 97. The Court further ordered the sentence to run concurrently with the sentence imposed by the Indiana court.

- On March 8, 2004, Toaz filed a Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, or Correct Sentence By a Person in Federal Custody. *Toaz v. United States*, No. 1:04-CV-148 (W.D. Mich.). This Court denied Toaz's § 2255 Motion on March 7, 2005, and the Sixth Circuit denied Toaz a certificate of appealability on July 22, 2005. *Id.*, ECF Nos. 23, 26.

- On May 19, 2008, Toaz filed a second § 2255 Motion and a motion for authorization to file a second or successive § 2255 Motion. *Toaz v. United States*, No. 1:14-CV-641 (W.D. Mich.), ECF Nos. 1, 2. On June 19, 2014, the Court transferred Toaz's motions to the Sixth Circuit pursuant to 28 U.S.C. § 1631. *Id.*, ECF No. 4. On November 3, 2014, the Sixth Circuit denied Toaz's motion for authorization to file a second or successive § 2255 Motion. *Toaz v. United States*, No. 14-1801 (6th Cir. Nov. 3, 2014).

- On March 10, 2015, Toaz filed a motion for modification or reduction of his sentence pursuant to 18 U.S.C. § 3582(c)(2) in light of Amendment 782 to the Sentencing Guidelines. On May 6, 2016, the Court granted Toaz's motion and reduced Toaz's sentence for the drug crime from life to 360 months imprisonment. *United States v. Toaz*, No. 1:97-CR-161, ECF No. 419. The remainder of the sentence was left intact.

- Toaz appealed the sentence reduction order to the Sixth Circuit, which affirmed in an unpublished order on June 29, 2017. *Id.*, ECF No. 427. Toaz argued, among other things, that the court of appeals should affirm the sentence reduction to the extent it left the original sentence unchanged, including that it runs concurrently with the Northern District of Indiana Sentence. Citing *United States v. Bowers*, 615 F.3d 715 (6th cir. 2010), the court of appeals observed that a court may review a final sentence "in only four specified situations," none of which Toaz had alleged. The court of appeals noted that a challenge to the execution or calculation of a sentence may only be brought pursuant to 28 U.S.C. § 2241, after exhausting administrative remedies.

- On March 2, 2015, Toaz filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 in the United States District Court for the Middle District of Florida, arguing that the BOP improperly calculated the start date of the sentence this Court imposed. Toaz argued that the BOP should have calculated the sentence this Court imposed as commencing on October 14, 1994—the date Toaz was arrested on the charges underlying the Northern District of Indiana sentence. *Toaz v. United States*, No. 5:15-cv-102 (M.D. Fla.). On April 11, 2018, the Florida court entered an order denying the petition, noting that under Eleventh Circuit law, the sentence this Court imposed could not have commenced prior to the date it was imposed, and therefore, the BOP properly calculated Toaz's sentence. *Id.*, Doc. 18 at PageID 178.

Toaz's instant § 2255 Motion is subject to dismissal for several reasons. First, it is subject to the restrictions on second or successive § 2255 motions set forth in § 2255(h), which "require[s] the presentation of new factual evidence or the demonstration of a new rule of constitutional law."

Wooten v. Cauley, 677 F.3d 303, 307 (6th Cir. 2012). Toaz alleges that the BOP refuses to properly execute his sentence, which is not a basis for avoiding the restrictions in § 2255(h). Second, as the Sixth Circuit noted in its June 29, 2017, Order, a challenge to the execution or calculation of a sentence must be brought under 28 U.S.C. § 2241. Toaz's instant § 2255 Motion is not the proper vehicle for challenging the execution of his sentence. *See Charles v. Chandler*, 180 F.3d 753, 756 (6th Cir. 1999) (stating that "claims seeking to challenge the execution or manner in which the sentence is served shall be filed in the court having jurisdiction over the prisoner's custodian under 28 U.S.C. 2241"). Finally, Toaz has already filed a habeas petition pursuant to 28 U.S.C. § 2241 in the district court having jurisdiction over the petition, and that court denied the petition.

Therefore, Toaz's motion under 28 U.S.C. § 2255 will be denied.

Dated: November 6, 2018

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE

APPENDIX D

No. 19-1044

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

CRAIG ALAN TOAZ,

Petitioner-Appellant,

v.

UNITED STATES OF AMERICA,

Respondent-Appellee.

ORDER

Craig Alan Toaz, a federal prisoner proceeding pro se, appeals a district court judgment denying his motion to vacate his sentence under 28 U.S.C. § 2255. Toaz has filed an application for a certificate of appealability ("COA"). *See* Fed. R. App. P. 22(b).

In 1994, Toaz was arrested and subsequently indicted in the Northern District of Indiana for interstate travel in aid of racketeering, in violation of 18 U.S.C. § 1952. He pleaded guilty and was sentenced to five years in prison, which he began serving in 1997.

In 2000, while Toaz was still in federal prison, a jury in the Western District of Michigan convicted him of conspiring to commit offenses against or to defraud the United States, in violation of 18 U.S.C. § 371; conspiring to distribute and possess with intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846; knowingly possessing stolen property, in violation of 18 U.S.C. § 2315; and being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). The district court sentenced Toaz to concurrent terms of life in prison for the drug crime, five years for the fraud charge, and ten years for the theft and firearm charges. The court ordered Toaz's sentence to run concurrently with the five-year term of imprisonment imposed by

the Northern District of Indiana. This court affirmed. *United States v. Toaz*, 59 F. App'x 94 (6th Cir. 2003).

In 2004, Toaz filed a § 2255 motion, which the district court denied. This court denied Toaz a COA. *Toaz v. United States*, No. 05-1387 (6th Cir. July 22, 2005) (order). Subsequently, the district court denied Toaz's motion for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b)(3) and (b)(6). This court denied Toaz a COA. *Toaz v. United States*, No. 08-1984 (6th Cir. Mar. 11, 2009) (order).

In 2015, Toaz filed a motion under 18 U.S.C. § 3582(c)(2) seeking to reduce his sentence in light of USSG Amendment 782, which reduced by two levels most of the base offense levels listed in the Drug Quantity Table. The district court granted the motion and reduced Toaz's sentence for the drug crime from life to 360 months in prison but left the remainder of the sentence unchanged. This court affirmed. *United States v. Toaz*, No. 16-1648 (6th Cir. June 29, 2017) (order).

Subsequently, Toaz filed a request for habeas relief under 28 U.S.C. § 2241 in the United States District Court for the Middle District of Florida, arguing that the Bureau of Prisons ("BOP") improperly calculated the start date of his 2000 sentence in that the BOP declined to credit the sentence as if it had commenced on October 14, 1994, the date that he was arrested on the charges resulting in the Northern District of Indiana conviction. *Toaz v. United States*, No. 5:15-cv-102 (M.D. Fla. Apr. 11, 2018). The district court denied the motion, and the Eleventh Circuit dismissed Toaz's appeal for want of prosecution. *Toaz v. Coleman*, No. 18-1222-C (11th Cir. Dec. 10, 2018).

In 2018, Toaz filed this § 2255 motion, seeking an adjustment to his 2000 sentence based on his continued argument that the BOP improperly calculated the start date of that sentence. He contended that the BOP's continued refusal "to run both [sentences] concurrently" or to credit him with time served has extended his sentence by 55 months. Toaz requested that the district court grant him a 55-month adjustment to the 2000 sentence, pursuant to USSG §§ 5G1.3(b) and 5K2.23, as an alternative basis for obtaining the sentence credit that the BOP has allegedly denied him. He maintained that the adjustment was necessary because: (1) after granting his § 3582(c)(2) motion

entencing him, the United States District Court for the Western District of Michigan ıed silent as to whether both of [his] federal sentences could legally be run concurrently as urt had originally ordered"; and (2) the United States District Court for the Middle District da has since determined that his sentences could *not* run concurrently (presumably because rt held that the 2000 sentence could not have commenced prior to the date it was imposed). The district court denied the § 2255 motion, reasoning that it was subject to dismissal : (1) the motion was subject to the restrictions on second or successive § 2255 motions set 28 U.S.C. § 2255(h); (2) Toaz's challenge to the execution of his sentence is more properly :d in a § 2241 petition; and (3) Toaz has already filed a § 2241 habeas petition, which the District of Florida denied.

Toaz seeks a COA with respect to the claim asserted in his § 2255 motion. He argues that ·ict court erred when it denied his motion because it improperly concluded that he was ;ing the execution of his sentence as opposed to the imposition of his sentence. He argues ight of the ruling from the United States District Court for the Middle District of Florida, 55 motion challenged "the unlawful sentence" imposed following resentencing.

A COA may issue "only if the applicant has made a substantial showing of the denial of a ;ional right." 28 U.S.C. § 2253(c)(2); *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). ıe district court's denial is based on a procedural ruling, the petitioner must demonstrate ists of reason would find it debatable whether the [motion] states a valid claim of the denial ;titutional right and that jurists of reason would find it debatable whether the district court ect in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Toaz has not burden.

Reasonable jurists would not debate the district court's procedural ruling denying Toaz's notion. A challenge to a federal conviction must be filed in a motion to vacate sentence U.S.C. § 2255 in the sentencing court, while a challenge to the execution of a sentence, the calculation of the length of the sentence, should be filed in a petition for a writ of orpus under § 2241 in the district where the prisoner is incarcerated. *See Charles v.*

Chandler, 180 F.3d 753, 755-56 (6th Cir. 1999). The district court determined that Toaz was challenging the execution of his sentence because he sought a 55-month credit on his 2000 sentence based on the BOP's allegedly improper refusal to set the start date for that sentence as October 1994. Although Toaz argues that he was challenging the district court's *imposition* of an allegedly improper sentence after the court granted his § 3582(c)(2) motion, the district court correctly concluded that the request for a 55-month adjustment was based on the BOP's allegedly improper calculation of the start date for his sentence. In addition, because a § 2255 motion was not the proper vehicle for Toaz's challenge to the BOP's execution of his sentence, the district court did not err when it declined to transfer the case to this court pursuant to *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997) (per curiam). Finally, Toaz has not shown that the district court was required by the interest of justice to transfer the case to the district of his confinement for treatment as a § 2241 petition. *See Roman v. Ashcroft*, 340 F.3d 314, 328-29 (6th Cir. 2003).

Accordingly, Toaz's application for a COA is **DENIED**.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk