"APPENDIX A"

FILED: June 9, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-7721 (L)
(1:19-cv-00400-TSE-IDD)

TRAVIS JACKSON MARRON, a/k/a Abdul Mu'Min

Petitioner - Appellant

v.

HAROLD CLARKE, Director of VA Dept. of Corrections

Respondent - Appellee

No. 19-7872
(1:19-cv-00400-TSE-IDD)

TRAVIS JACKSON MARRON, a/k/a Abdul Mu'Min

Petitioner - Appellant

v.

HAROLD CLARKE, Director of VA Dept. of Corrections

Respondent – Appellee

ORDER

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Patricia S. Connor, Clerk

"APPENDIX B"

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-7721

TRAVIS JACKSON MARRON, a/k/a Abdul Mu'Min,

Petitioner - Appellant,

v.

HAROLD CLARKE, Director of VA Dept. of Corrections,

Respondent - Appellee.

No. 19-7872

TRAVIS JACKSON MARRON, a/k/a Abdul Mu'Min,

Petitioner - Appellant,

v.

HAROLD CLARKE, Director of VA Dept. of Corrections,

Respondent - Appellee.

Appeals from the United States District Court for the Eastern District of Virginia, at Alexandria. T.S. Ellis, III, Senior District Judge. (1:19-cv-00400-TSE-IDD)

Submitted: April 21, 2020 Decided: April 28, 2020

Before GREGORY, Chief Judge, QUATTLEBAUM and RUSHING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Travis J. Marron, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Travis J. Marron seeks to appeal the district court's orders dismissing his 28 U.S.C. § 2254 (2018) petition as successive and unauthorized and denying his postjudgment motion. The orders are not appealable unless a circuit justice or judge issues a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1)(A) (2018). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2018). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong. *See Buck v. Davis*, 137 S. Ct. 759, 773-74 (2017). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable and that the petition states a debatable claim of the denial of a constitutional right. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

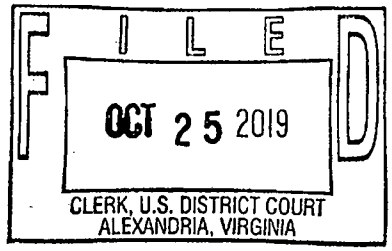
We have independently reviewed the record and conclude that Marron has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

"APPENDIX C"

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division



Travis Jackson Marron a/k/a Abdul Mu'min, Petitioner,	)	
v.	)	**1:19cv400 (TSE/IDD)**
	)	**1:19cv910 (TSE/IDD)**
Harold Clarke, Respondent.	)	

ORDER

Proceeding pro se, Virginia inmate Travis Jackson Marron a/k/a Abdul Mu'min has filed two identical petitions for writs of habeas corpus pursuant to 28 U.S.C. § 2254, see [-400 Case Dkt. No. 1; -910 Case Dkt. No. 1], and paid the filing fees, see [-400 Case Dkt. No. 6; -910 Case Dkt. No. 4]. Because Marron has paid the filing fees, his applications for permission to proceed in forma pauperis, see [-400 Case Dkt. No. 7; -910 Case Dkt. No. 5], are moot.

Marron seeks to challenge his 1998 convictions in Chesapeake Circuit Court for murder and related crimes. See [-400 Case Dkt. No. 1; -900 Case Dkt. No. 1]. Marron previously challenged these convictions in a § 2254 petition filed in 2001; this Court denied that petition; and the United States Court of Appeals for the Fourth Circuit dismissed Marron's appeal. See Marron v. Angelone, No. 1:01cv1106 (E.D. Va. 2001), app. dism., No. 01-7836 (4th Cir. 2002) (available on www.pacer.gov). In 2003, the Fourth Circuit denied Marron's application for authorization to file a second or successive § 2254 petition. See In re Marron, No. 03-294 (4th Cir. 2003) (available on www.pacer.gov). And, in 2017, the Fourth Circuit denied Marron's second application for permission to file a second or successive § 2254 petition. See In re Marron, No. 17-432 (4th Cir. 2017) (available www.pacer.gov).

Before Marron may file a second or successive federal habeas petition, he is statutorily required first to obtain authorization from the Fourth Circuit to do so. See 28 U.S.C. § 2244. Absent prefiling authorization, this Court lacks jurisdiction to consider a second or successive petition from Marron. See, e.g., United States v. Reid, 745 F. App'x 513, 514 (4th Cir. 2018) (citing 28 U.S.C. § 2244(b)(3)). Because Marron has not proffered prefiling authorization from the Fourth Circuit for his latest § 2254 petitions, this Court lacks jurisdiction to consider them.

Accordingly, it is hereby

ORDERED that Marron's applications for permission to proceed in forma pauperis [-400 Case Dkt. No. 7; -910 Case Dkt. No. 5] be and are DENIED as moot; and be it further;

ORDERED that Marron's § 2254 petitions [-400 Case Dkt. No. 1; -910 Case Dkt. No. 1] be and are DISMISSED for lack of jurisdiction.

The Fourth Circuit has held that "[a] jurisdictional dismissal of a collateral attack on a habeas proceeding is so far removed from the merits of the underlying habeas petition that it cannot be said to be a 'final order[] . . . disposing of the merits of a habeas corpus proceeding . . . challenging the lawfulness of the petitioner's detention.'" United States v. McRae, 793 F.3d 392, 400 (4th Cir. 2015) (quoting Harbison v. Bell, 556 U.S. 180, 183 (2009)). It has therefore held that a Certificate of Appealability is not required "before determining whether the district court erred in dismissing . . . an unauthorized successive habeas petition." Id. Accordingly, the Court need not determine whether Marron meets the requisite standard for issuance of a Certificate of Appealability.

To appeal this decision, Marron must file a written notice of appeal with the Clerk's office within thirty (30) days of the date of this Order. See Fed. R. App. P. 4(a). A written notice of appeal is a short statement indicating a desire to appeal and including the date of the Order

Marron wishes to appeal. Failure to file a timely notice of appeal waives the right to appeal this decision.

The Clerk is directed to send a copy of this Order to Marron, together with the attached application form for requesting authorization to file a second or successive § 2254 petition from the Fourth Circuit.

Entered this 25 day of October, 2019.

Alexandria, Virginia

/s/
T. S. Ellis. III
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

Travis Jackson Marron a/k/a Abdul Mu'min, Petitioner,	)	
v.	)	**1:19cv400 (TSE/IDD)**
Harold Clarke, Respondent.	)	

ORDER

On October 25, 2019, the Court dismissed for lack of jurisdiction a habeas corpus petition filed by Virginia inmate Travis Jackson Marron a/k/a Abdul Mu'min because he failed to proffer the requisite prefiling authorization from the United States Court of Appeals for the Fourth Circuit before presenting a second or successive habeas petition. See [Dkt. No. 14]. Marron appealed [Dkt. No. 9] and filed a pro se motion for reconsideration pursuant to Federal Rule of Civil Procedure 60(b)(4) [Dkt. No. 14].

Rule 60(b)(4) provides for relief when the Court's "judgment is void." This refers only to the judgment of the Court in this proceeding, not to a judgment entered by a state court in state criminal or habeas proceedings. Because the Court's judgment in this action is not void, Marron is not entitled to reconsideration or relief on this ground.

Marron also argues in his motion for reconsideration that his petition is not second or successive in light of the Supreme Court's decision in Martinez v. Ryan, 566 U.S. 1 (2012). See [Dkt. No. 14 at 5]. Marron is incorrect and the United States Court of Appeals for the Fourth Circuit rejected this argument in 2017 when Marron applied for permission to file a second or

successive habeas petition. See In re Marron, No. 17-432 (4th Cir. 2017) (available on www.pacer.gov). It is no basis for relief here.

Accordingly, it is hereby

ORDERED that Marron's motion for reconsideration [Dkt. No. 14] be and is DENIED.

To appeal this decision, Marron must file a written notice of appeal with the Clerk's office within thirty (30) days of the date of this Order. See Fed. R. App. P. 4(a). A written notice of appeal is a short statement indicating a desire to appeal and including the date of the Order Marron wishes to appeal. Failure to file a timely notice of appeal waives the right to appeal this decision.

The Clerk is directed to send a copy of this Order to Marron.

Entered this 5th day of Dec, 2019.

Alexandria, Virginia

/s/
T. S. Ellis, III
United States District Judge

"APPENDIX D"

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Tuesday the 26th day of March, 2019.

Abdul-Mu'min Marron,
f/k/a Travis Jackson Marron, Appellant,

against Record No. 180278
Circuit Court No. CL17-4297

Commonwealth of Virginia, Appellee.

From the Circuit Court of the City of Chesapeake

Upon consideration of the record and the pleadings filed in this case, the Court finds that assignment of error no. 2 does not address any ruling of the circuit court in *Travis J. Marron v. Commonwealth of Virginia*, Circuit Court No. CL17-4297, from which an appeal is sought. Accordingly, the petition for appeal is dismissed as to that assignment of error. Rule 5:17(c)(1)(iii).

Upon further consideration whereof, assignment of error no. 1 is refused.

Justice McCullough took no part in the resolution of the petition.

A Copy,

Teste:

Douglas B. Robelen, Clerk

By: _____

Deputy Clerk

"APPENDIX E"

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

TRAVIS J. MARRON, No. 1091504

Petitioner

v. Civil No. CL17-4297

COMMONWEALTH OF VIRGINIA,

Respondent

FINAL ORDER

Upon mature consideration of Travis Jackson Marron's "Motion to Vacate" (Motion), the motion of the Attorney General, and the authorities cited therein, a review of the records in Case Nos. 97-3158 through 97-3161 and Case No. CL00-896, which are hereby made a part of the record in this matter, this Court finds as follows:

Travis Jackson Marron (the Petitioner) was charged with capital murder, robbery and two related firearm charges. He pled guilty to first-degree murder, robbery and the related firearm charges, Case Nos. 97-3158 through 97-3161. On November 2, 1998, he was sentenced to 75 years on the murder charge (28 years suspended), 25 years for the robbery (25 years suspended), 3 years for the use of a firearm in the commission of murder charge and 5 years for the use of a firearm in the commission of robbery charge. This Court entered judgment on December 7, 1998 imposing those sentences. The Petitioner did not appeal.

Procedural History

On December 16, 1999, the Petitioner, proceeding *pro se*, executed a habeas petition, in which he alleged: he was entitled to a new trial because both of his parents had not been notified of his transfer hearing; numerous claims of ineffective assistance of counsel; his right to confront the

witnesses against him was violated; and that there was insufficient evidence to support his convictions. This Court denied and dismissed the Petitioner's habeas petition on January 9, 2001. Case No. CL00-896. The Petitioner's subsequent petition for appeal to the Virginia Supreme Court was dismissed on May 1, 2001 because it had not been perfected in the manner provided by law, citing Rule 5:17(a)(1). Record No. 010874.[1]

On October 5, 2015, the Petitioner filed a petition for a "Writ of Error Motion to Void/Vacate Judgement" in Case No. CR97-3158, which this Court dismissed on December 11, 2015. The Virginia Supreme Court refused the Petitioner's petition for appeal from the 2015 judgment by order entered November 29, 2016. Record No. 160014. The United States Supreme Court denied the Petitioner's petition for a writ of certiorari on March 17, 2017. Record No. 16-7938.

Present Motion

On October 25, 2017, Petitioner executed the present Motion to Vacate (Motion), and alleges his convictions are void and should be vacated. His claim and allegations are as follows:

> "MARRON'S" SENTENCES AND CONVICTIONS ARE VOID AB INITIO BECAUSE THE TRIAL COURT LACKED SUBJECT MATTER JURISDICTION TO CONDUCT "MARRON'S" TRIAL WHERE NO EVIDENCE WAS ADDUCED AT TRIAL TO PROVE THAT THE CRIME FOR WHICH MARRON WAS CONVICTED, NAMELY MURDER & ROBBERY OF MARK PICKREL, & 2 COUNTS OF USE OF A FIREARM OCCURRED IN THE LOCALITY IN WHICH THE COURT HAD JURISDICTION – HENCE IN THE COMMONWEALTH OF VIRGINIA. (Motion at 2).

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[1] Marron also sought habeas relief in federal court. On June 29, 2001, the Petitioner executed a federal habeas petition, which the federal district court dismissed as untimely on September 17, 2001. Civil Action No. 01-1106-AM. The United States Court of Appeals for the Fourth Circuit dismissed his subsequent appeal on March 25, 2002, and the petition for rehearing was denied on May 14, 2002. Record No. 01-7836. The Petitioner failed to properly file a petition for a writ of certiorari. The Petitioner's 2003 application to file a successive federal habeas petition was denied on November 26, 2003. (Resp. Ex. 1).

The Petitioner asserts that his indictments were void ab initito because the "Commonwealth failed to present any evidence regarding the state, city, street address that show[] the crime happened in the Commonwealth of Virginia, or locality at which" Pickrel's murder occurred and therefore this Court lacked subject matter jurisdiction to try the Petitioner. (Motion at 5-6). His Motion is untimely under Rule 1:1 and is also without merit.[2]

A Guilty Plea Admits the Allegations in the Indictment and no Further Evidence is required

The Petitioner was charged in four indictments that read, in relevant part, that "On or about June 26, 1997, ***in the City of Chesapeake, Virginia***, the accused, Travis Jackson Marron, did" (emphasis added) murder Mark Pickrel, rob Mark Pickrel, and use a firearm in each substantive offense. Each of the four indictments was returned by the Chesapeake Circuit Court's grand jury during the December 1997 term. On June 18, 1998, this Court arraigned the Petitioner on each of the four indictments. The Petitioner entered a guilty plea to each indictment after it was read aloud by the clerk. (6/18/1998 Tr. at 2-4). The prosecutor's proffer of the evidence included that the Petitioner had robbed the victim at the victim's apartment in the City of Chesapeake and then transported the victim to another location in the City of Chesapeake where the Petitioner shot and killed the victim. (Id. at 10-13). The summary of the evidence concluded with the prosecutor stating all of the events had taken place in the City of Chesapeake. (Id. at 13).

[2] Marron has also file another Motion to Vacate in this Court challenging his convictions on a different ground. Case No. CL17-4298.

First, the Court had personal jurisdiction over the Petitioner by virtue of his guilty pleas to the indictments. His appearance and plea in this Court subjected him to the jurisdiction of this Court. Gilpin v. Joyce, 257 Va. 579, 581, 515 S.E.2d 124, 125 (1999) (general appearance "is a waiver of process, equivalent to personal service of process, and confers jurisdiction of the person on the court.") (quoting Nixon v. Rowland, 192 Va. 47, 50, 63 S.E.2d 757, 759 (1951)); accord Lyren v. Ohr, 271 Va. 155, 160, 623 S.E.2d 883, 885 (2006) (a general appearance "waived any defects in service of process and conferred personal jurisdiction of his person upon the circuit court."(citing Nixon, 192 Va. at 50, 63 S.E.2d at 759); see United States v. Marks, 530 F.3d 799, 810 (9th Cir. 2008) (court had subject matter jurisdiction because the indictment charged an offense against the laws of the United States, and court had personal jurisdiction over the defendant because he was brought before it on a federal indictment charging a violation of federal law).

Second, by pleading guilty to each of the indictments the Petitioner admitted to each allegation in the indictments, including the allegation that the robbery, murder and both use firearm convictions occurred in the City of Chesapeake, Virginia. See Kibert v. Commonwealth, 216 Va. 660, 665, 222 S.E.2d 790, 793 (1976) ("'Generally no evidence of guilt is required in order to proceed to judgment [upon a plea of guilty], for [the] accused has himself supplied the necessary proof . . . .'" (quoting Hobson v. Youell, 177 Va. 906, 912-13, 15 S.E.2d 76, 78 (1941))); Jones v. Commonwealth, 29 Va. App. 503, 510, 513 S.E.2d 431, 435 (1999) ("Virginia law . . . establishes that a plea of guilty ordinarily subsumes an admission of guilt."); see also Peyton v. King, 210 Va. 194, 196, 169 S.E.2d 569, 571 (1969) (plea of guilty is "a self-supplied

conviction authorizing imposition of the punishment fixed by law" and "is a waiver of all defenses other than those jurisdictional.").[3]

Lastly, this Court had both subject matter jurisdiction by virtue of its designation as a circuit court and the authority to exercise that jurisdiction as a result of the return of the indictment. See Porter v. Commonwealth, 276 Va. 203, 230, 661 S.E.2d 415, 428 (2008) (discussing circuit courts subject matter jurisdiction over charges under Code § 17.1-513, the authority to conduct that trial; and the territorial jurisdiction authorizing the court to adjudicate among the parties at a particular place, which is where the indictment is returned by virtue of Code § 19.2-239). Since the Court had subject matter jurisdiction by statute, the authority to exercise that subject matter jurisdiction by virtue of the return of the indictment, and jurisdiction of the Petitioner's person by virtue of his general appearance before the Court and his plea of guilty, the Petitioner has failed to show that his conviction is void; thus and his Motion is barred by Rule 1:1.

In addition, the Supreme Court has recently reaffirmed the long-standing rule in Virginia that collateral attacks on criminal judgments (such as a motion to vacate filed more than twenty-one days after a judgment has become final) are limited to a judgment that is void ab initio, and do not "serve as an all-purpose pleading for collateral review of criminal convictions" to consider issues a defendant failed to preserve at trial. See Jones v. Commonwealth, 293 Va. 29, 53, 795 S.E.2d 705, 719 (2017). Rule 1:1 bars a collateral challenge unless the judgment challenged is

[3] "Under Virginia law, "the court shall try the case" after receiving a guilty plea. This does not mean that "evidence must be heard upon a plea of guilty." But it does mean that when evidence, a stipulation, or an unobjected-to proffer is presented to the trial court in conjunction with a guilty plea, an appellate court will consider it alongside the other evidence presented during the earlier suppression hearing." Smith v. Commonwealth, 61 Va. App. 112, 116, 733 S.E.2d 683, 685 (2012).

void, not merely voidable. See Super Fresh Food Mkts. of Va. v. Ruffin, 263 Va. 555, 563, 561 S.E.2d 734, 739 (2002) ("Once a final judgment has been entered and the twenty-one day time period of Rule 1:1 has expired, the trial court is thereafter without jurisdiction in the case.").

The Petitioner's failure to raise his alleged claim during the criminal proceedings in 1998 constitutes a waiver of any error that may have occurred, and renders his motion barred by Rule 1:1 since it was not raised within 21 days of the entry of the final order. See Singh v. Mooney, 261 Va. 48, 51, 541 S.E.2d 549, 551 (2001) (if judgment is not void, collateral attack is subject to the limitations of Rule 1:1) (citing Parrish v. Jessee, 250 Va. 514, 521, 464 S.E.2d 141, 145 (1995)).[4]

The Petitioner's allegations can be disposed of on the basis of recorded matters, and no plenary hearing is necessary. Cf. Friedline v. Commonwealth, 265 Va. 273, 576 S.E.2d 491 (2003); Yeatts v. Murray, 249 Va. 285, 455 S.E.2d 18 (1995); Arey v. Peyton, 209 Va. 370, 164 S.E.2d 691 (1968).

The Petitioner's allegations can be disposed of on the basis of recorded matters, and no plenary hearing is necessary. Cf. Friedline v. Commonwealth, 265 Va. 273, 576 S.E.2d 491 (2003); Yeatts v. Murray, 249 Va. 285, 455 S.E.2d 18 (1995); Arey v. Peyton, 209 Va. 370, 164 S.E.2d 691 (1968).

For the reasons stated, it is **ADJUDGED** and **ORDERED** that Marron's Motion is hereby **DENIED** and **DISMISSED** as untimely under Rule 1:1. Pursuant to Rule 1:13, the Court dispenses with the endorsement of the Petitioner, and this matter is stricken from the docket of this Court.

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[4] The Petitioner's guilty plea also waives any non-jurisdictional defects. See Savino v. Commonwealth, 239 Va. 534, 538-539, 391 S.E.2d 276, 278 (1990) (citing Peyton v. King, 210 Va. 194, 196-97, 169 S.E.2d 569, 571 (1969)).

The Clerk is directed to forward a certified copy of this Final Order dismissing Marron's Motion to the Petitioner and Michael T. Judge, Senior Assistant Attorney General.

Entered this 14th day of Feb., 2018.

By: _____
Judge

I ask for this:

CERTIFIED TO BE A TRUE COPY
OF THE RECORD IN MY CUSTODY
ALAN P. KRASNOFF, CLERK
CIRCUIT COURT, CHESAPEAKE, VA
BY: _____
DEPUTY CLERK

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