

A-1

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 21-3742

Matthew Staszak

Plaintiff - Appellant

v.

John P. Yates, Warden, FCC Forrest City

Defendant - Appellee

**Appeal from U.S. District Court for the Eastern District of Arkansas - Delta
(2:21-cv-00047-JTR)**

JUDGMENT

Before LOKEN, KELLY, and GRASZ, Circuit Judges.

Appellant's motion for leave to proceed on appeal in forma pauperis is granted. This court has reviewed the original file of the United States District Court. It is ordered by the court that the judgment of the district court is summarily affirmed. See Eighth Circuit Rule 47A(a).

February 08, 2022

**Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.**

/s/ Michael E. Gans

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FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

NOV 23 2021

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
DELTA DIVISION**

TAMMY H. DOWNS, CLERK
By: *Rachel* DEP CLERK

MATTHEW L. STASZAK
Reg. #24227-171

PETITIONER

V.

No. 2:21-cv-00047-JTR

JOHN P. YATES, Warden
FCI-Low, Forrest City, Arkansas

RESPONDENT

JUDGMENT

Consistent with the Order that was entered on this day, it is CONSIDERED,
ORDERED, and ADJUDGED that this 28 U.S.C. § 2241 action is DISMISSED,
without prejudice.

DATED this 23rd day of November, 2021.

J. Thomas Ray
UNITED STATES MAGISTRATE JUDGE

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

NOV 23 2021

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
DELTA DIVISION**

TAMMY H. DOWNS, CLERK
By:  DEP. CLERK

MATTHEW L. STASZAK
Reg. #24227-171

PETITIONER

V.

No. 2:21-cv-00047-JTR

JOHN P. YATES, Warden
FCI-Low, Forrest City, Arkansas

RESPONDENT

ORDER OF DISMISSAL¹

Pending before the Court is a 28 U.S.C. § 2241 Petition for a Writ of Habeas Corpus filed by Petitioner, Matthew L. Staszak ("Staszak"), who was incarcerated at the Forrest City, Arkansas, Federal Correctional Institution when he filed his Petition. *Doc. 1*. In the Petition, Staszak challenges his federal conviction, pursuant to a guilty plea, to Sexual Exploitation of a Minor, two counts of Travel with Intent to engage in Illicit Sexual Conduct, and Failure to Appear.² *United States v. Staszak*, 4:12-CR-40064-JPG (S.D.Ill., judgment entered Feb. 5, 2014) ("Staszak I").

¹ The parties consented in writing to allow a United States Magistrate Judge to exercise jurisdiction over this case and conduct all proceedings, including the entry of a final judgment. *Doc. 25*.

² On or about October 4, 2012, Staszak cut his electronic monitor and absconded while on pretrial release, leading to the Failure to Appear conviction. *Staszak*, 4:12-CR-40064-JPG, *Docs. 39, 40, 41, & 69*. Staszak claimed he was going to turn himself in, but instead was caught in a bar on June 2, 2013. *Doc. 1, pp. 209-210*. While "Staszak does not challenge" his conviction for Failure to Appear, he still requests this Court to vacate his conviction. *Doc. 1, p. 2*.

Staszak appealed the denial of § 2255 relief to the Seventh Circuit. On December 3, 2020, the Court affirmed the denial of Staszak's § 2255 Motion and found that Staszak had failed to make a substantial showing that any of his constitutional rights were violated. *Staszak II*, *Doc. 144*. Thereafter, Staszak did *not* request permission from the Seventh Circuit to file a Second or Successive § 2255 Motion.

Instead, on May 7, 2021, Staszak initiated this § 2241 habeas action and sought to use this proceeding to relitigate the same claims that he unsuccessfully raised in the § 2255 proceeding. *Doc. 1*. Staszak significantly delayed the resolution of his habeas claims by burdening the Court with hundreds of pages of *irrelevant* "evidence", much of which was devoted to disparaging the Victim and her mother.⁴ In addition to his 233-page Petition (*Doc. 1*), Staszak filed an Affidavit Exhibit B (*Doc. 2*), a Notice (*Doc. 3*), "Additional Newly Discovered Evidence" (Verizon Wireless bill) (*Doc. 4*), Affidavit Exhibits O and P (*Doc. 6*), Affidavits of Danny

⁴ Staszak seeks to blame the then-minor Victim for all of his legal problems based on her alleged sexual promiscuity. His submissions to the Court leave no doubt about his clear animus toward the Victim and her mother. Despite the sentencing Court in *Staszak II* noting "it would be virtually impossible to get evidence of [the Victim's] prior sexual conduct admitted," Staszak still devoted a significant portion of his numerous filings in this proceeding to disparaging the minor Victim.

The allegedly "newly discovered evidence" of the Victim's supposed sexual promiscuity is wholly irrelevant. It does not matter how many other people the minor Victim allegedly had sex with, or how horrible her mother allegedly is. It simply does not provide a defense for Staszak, who admitted under oath, during his guilty plea colloquy, that he: filmed himself having intercourse with the Victim, someone he knew was a minor; repeatedly traveled interstate to have additional sexual encounters with the minor Victim; and later absconded as a fugitive from justice.

II. Discussion

Jurisdiction over a federal prisoner's collateral attack on his conviction or sentence is governed by the well-recognized distinction between claims that attack *the validity* of a federal conviction or sentence, and claims that challenge *the execution* of a federal sentence. In his § 2241 habeas Petition, Staszak clearly is challenging the validity of his federal conviction and sentence, *not* the execution of his federal sentence.⁵ *Doc. 1.*

As a general rule, collateral attacks on the validity of a federal conviction and sentence must be raised in a motion to vacate filed in the sentencing court under 28 U.S.C. § 2255, rather than by a habeas petition filed in the court of incarceration under 28 U.S.C. § 2241. *Lopez-Lopez v. Sanders*, 590 F.3d 905, 907 (8th Cir. 2010); *Abdullah v. Hedrick*, 392 F.3d 957, 959 (8th Cir. 2004). Because a § 2255 motion attacks the validity of the conviction or sentence, it is “a further step in the movant’s criminal case,” and subject matter jurisdiction lies with the court which convicted

⁵ Staszak strenuously but erroneously argues that he “is NOT challenging the ‘VALIDITY’ of his sentence” but instead only the execution of his sentence. *Doc. 26, p. 3.* Under Staszak’s tortured logic, he is asking this Court only to strike the Second Superseding Indictment (something that inherently would also *invalidate* his conviction and sentence) because it was the basis for the “execution” of his sentence. *Id.* Obviously, any challenge by a prisoner to the validity of the charging Indictment or Superseding Indictment is also a direct challenge to the validity of his underlying conviction and sentence. In contrast, a challenge to the execution of a sentence relates to much different and far narrower matters limited to such things as calculation errors in the length of a sentence, loss of good time credits, or the terms of a prison restitution plan. *Matheny v. Morrison*, 307 F.3d 709 (8th Cir. 2002).

the “petitioner has been denied permission to file a second or successive § 2255 motion;” (3) “a second or successive § 2255 motion has been dismissed”; or (4) the “petitioner has allowed the one year statute of limitations and/or grace period to expire.” *Id.*

Staszak argues he received “a ‘limited’ evidentiary hearing” on his previous § 2255 Motion. *Doc. 1, p. 3.* This is true only in the sense that the hearings were properly “limited” *to relevant issues*. Over a period of five years, the sentencing court held multiple evidentiary hearings to allow Staszak to present evidence in support of his § 2255 Motion. *Staszak II, Docs. 84, 85, 86, 87, 92, 94, 97, 99, 100, 101.* Staszak presented, and the sentencing court considered, thousands of pages of evidence.

After thoroughly considering the evidence, the sentencing court found that Staszak’s sworn statements during his plea colloquy, his waiver of his right to file a § 2255 motion, and his voluntary guilty plea all combined to completely foreclose § 2255 relief. *Staszak II, Doc. 134, pp. 18-20.* Finally, the sentencing court also concluded that Staszak’s claims failed *on the merits*.

The sentencing court also addressed and rejected each of Staszak’s claims. For example, the court found a good faith investigation by federal law enforcement revealed “evidence suggesting [Staszak’s] parents aided him in becoming and/or remaining a fugitive from justice.” Accordingly, the court rejected Staszak’s claim

or use. *Staszak II*, Doc. 134, p. 32. Further, the court found the “credible evidence” showed Staszak’s attorney “did everything competent counsel would do.” *Staszak II*, Doc. 134, pp. 34-36. Finally, the court found that in light of the “strong evidence against Staszak that exposed him to 100 years in prison,”⁶ Staszak’s attorney produced “an outstanding result that well exceeded mere competent representation.” *Staszak II*, Doc. 134, p. 36.

In his § 2241 habeas Petition, Staszak requests this Court to reverse the thorough, well-reasoned findings of the sentencing court, *and* also disregard the Seventh Circuit Court of Appeals’ finding of “no substantial showing of the denial of a constitutional right.” *Staszak II*, Doc. 144-1. Nothing in § 2255’s “savings clause” authorizes this Court to exercise such far ranging subject matter jurisdiction under § 2241.

Finally, Staszak argues this Court may address any claims of actual innocence that he failed to present in his § 2255 Motion. Doc. 1, p. 3. The basis for all of his actual innocence claims were, for the most part, included in his previous proceedings and rejected in *Staszak II*. Staszak had *many opportunities* to supplement his § 2255 Motion with additional claims and evidence between the original filing of his § 2255 Motion in 2015, and the sentencing Court’s dismissal of that Motion on February

⁶ This evidence included overhears of Staszak’s own conversations with the minor Victim; transcripts of sexually graphic Facebook chats with the minor Victim; and statements he made to law enforcement before his arrest.

Victim a cellular phone. *Doc. 1, p. 211*. He knew the Victim was underage, but continued to have sexual contact with her. *Doc. 1, pp. 212-213*. He now, almost a decade later, claims receipts for his cell phone purchase are sufficient to prove that he did not do any of the things he admitted doing, multiple times, under penalty of perjury. The “receipts” in the record are *not* “new evidence,” and come nowhere close to establishing that Staszak is actually innocent.

Finally, Staszak’s obvious lack of diligence in locating the receipts forecloses habeas relief. According to Staszak, the receipts for his cell phone were located in “sealed boxes” in his father’s possession and they were “unavailable” to him before he filed this habeas action. *Doc. 26, 27, & 28*. However, Staszak goes on to make it clear that what made those documents “unavailable” to him was the fact he “did not recall or remember those receipts” until after he filed this habeas action. *Doc. 26, p. 4*. A habeas petitioner’s failure to remember the existence of documents that he only later recalls does not make those document “unavailable” or cause them to qualify as “new evidence.”

At the time Staszak entered his guilty plea, he potentially faced 100 years in prison. With so much at stake, even a miniscule amount of diligence would have motivated a reasonable person to look in boxes of personal possessions from the relevant time period for potential evidence, even if those receipts were in boxes that were located at the home of a parent. Staszak clearly could have accessed the

subject matter jurisdiction over Staszak's § 2241 challenge to the validity of his conviction and sentence.

III. Conclusion

The evidence Staszak attempts to rely on falls far short of making even a colorable showing that he is actually innocent. He also has not come close to meeting the exception in the "savings clause" found in § 2255(e). Further, even if Staszak had presented meritorious claims, with some evidentiary support, this Court would still lack subject matter jurisdiction to provide the relief requested. Finally, for Staszak to properly proceed with any of these claims he must first receive authorization from the Court of Appeals for the Seventh Circuit. Only then can a district court consider the claims in his § 2241 habeas Petition. *See* 28 U.S.C. § 2255(h) (citing 28 U.S.C. §2244).

IT IS THEREFORE ORDERED THAT Respondent's Motion to Dismiss (Doc. 24) be GRANTED. Petitioner Matthew L. Staszak's Petition for a Writ of Habeas Corpus, *Doc. 1*, is DISMISSED, without prejudice. All pending motions are DENIED as moot.

Dated this 23rd day of November, 2021.


UNITED STATES MAGISTRATE JUDGE

A-3

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 21-3742

Matthew Staszak

Appellant

v.

John P. Yates, Warden, FCC Forrest City

Appellee

Appeal from U.S. District Court for the Eastern District of Arkansas - Delta
(2:21-cv-00047-JTR)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

March 11, 2022

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

CERTIFICATE OF SERVICE

I, Petitioner, Matthew L. Staszak, hereby Certify that a true and correct copy of the foregoing Petition for a Writ of Certiorari and Appendices A-1 through A-11 was mailed Fed-Ex with tracking number 271151840729 mail on this 22nd day of March 2022, affixed and addressed to:

Fed-Ex

Supreme Court of the United States

1 First Street, N.E.,

Washington, D.C. 20543-0001

"LEGAL MAIL"

&

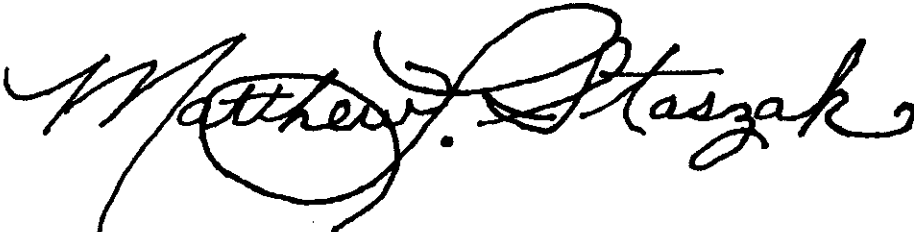
Fed-Ex

Office of the Solicitor General

950 Pennsylvania Ave., NW

Washington, D.C. 20530-0001

"LEGAL MAIL"

A handwritten signature in black ink, reading "Matthew L. Staszak". The signature is fluid and cursive, with the first name "Matthew" and last name "Staszak" clearly legible. The middle initial "L." is smaller and less distinct. The signature is written over a horizontal line.

MATTHEW L. STASZAK, *Petitioner, pro se,*

Reg. No. 24227-171

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