NOT RECOMMENDED FOR PUBLICATION

No. 21-5267

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

ORLANDO DEAN HOBBS,	)	
	)	
Petitioner-Appellant,	)	
	)	
v.	)	ON APPEAL FROM THE UNITED
	)	STATES DISTRICT COURT FOR
CLINTON BRYANT,	)	THE MIDDLE DISTRICT OF
	)	TENNESSEE
Respondent-Appellee.	)	

ORDER

Before: SILER, CLAY, and McKEAGUE, Circuit Judges.

Orlando Dean Hobbs, a pro se federal prisoner, appeals a district court order that dismissed his petition filed pursuant to 28 U.S.C § 2241.[1] He also moves for injunctive relief, seeking release from his sentence. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a).

In 2009, Hobbs pleaded guilty to being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g). The district court sentenced him to a fifteen-year mandatory minimum prison sentence under the Armed Career Criminal Act, 18 U.S.C. § 924(e), based on his prior Minnesota convictions for two counts of simple robbery and one count of aggravated robbery.

After unsuccessfully seeking relief under 28 U.S.C. § 2255, Hobbs now seeks relief under § 2241. According to Hobbs, on February 15, 1995, the State of Minnesota issued a notice of his

[1] In the opening paragraph of the district court's order, it stated Hobbs's "petition will be denied," *Hobbs v. Bryant*, No. 3:20-CV-01077, 2021 WL 268716, at *1 (M.D. Tenn. Jan. 27, 2021), however in the final disposition of the case, the court held, Hobbs "is not entitled to proceed with this claim under Section 2241 and this matter is **DISMISSED**." *Id.* at *3.

"restoration of civil rights"; Hobbs alleges that he did not receive this notice until November 15, 2019. Hobbs claims that this notice entitles him to immediate release.

The district court dismissed Hobbs's petition, reasoning that this claim did not satisfy the requirements for obtaining relief under § 2241.

"The appellate court renders de novo review of a district court judgment dismissing a habeas corpus petition filed under 28 U.S.C. § 2241." *Petty v. Stine*, 424 F.3d 509, 510 (6th Cir. 2005) (quoting *Charles v. Chandler*, 180 F.3d 753, 755 (6th Cir.1999) (per curiam)). In general, an attack on the validity of a conviction or sentence must be brought under § 2255 as opposed to § 2241, under which a petitioner may ordinarily challenge only the execution of his sentence. *United States v. Peterman*, 249 F.3d 458, 461 (6th Cir. 2001). But a federal prisoner may use § 2241 to challenge his conviction or sentence "if § 2255 is 'inadequate or ineffective to test the legality of his detention.'" *Id.* (quoting 28 U.S.C. § 2255(e)).

Hobbs does not meet this requirement. He previously raised his claim before this court, which found that the 1995 "restoration of civil rights" notice upon which he relies was available to him when he filed his first § 2255 motion in 2010. *See In re Hobbs*, No. 20-5343, slip op. at 3 (6th Cir. Sept. 16, 2020) (order). And regardless of when Hobbs discovered the notice, he cannot show, for purposes of pursuing a petition under § 2241, that § 2255 is inadequate or ineffective to test the legality of his detention. *See Peterman*, 249 F.3d at 461. Section § 2255 is not inadequate simply because Hobbs has been denied relief under § 2255 and denied permission to file a second or successive § 2255 motion. *See id.* And because Hobbs has "not shown an intervening change in the law that establishes [his] actual innocence," his claim does "not fall within any arguable construction of [the savings clause]." *Id.* at 462.

Because Hobbs did not show that § 2255 is inadequate or ineffective to test his detention, the district court lacked jurisdiction to entertain his § 2241 petition. *See Taylor v. Owens*, 990 F.3d 493, 499 (6th Cir. 2021). Accordingly, we **AFFIRM** the district court's dismissal and **DENY** the motion for injunctive relief.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

ORLANDO DEAN HOBBS,	)	
	)	
Petitioner,	)	
	)	
v.	)	**No. 3:20-cv-01077**
	)	
CLINTON BRYANT,	)	**Judge Trauger**
	)	
Respondent	)	

MEMORANDUM AND ORDER

The court denied relief on the petitioner's habeas petition on January 27, 2021. (Doc. No. 7.) Specifically, the court determined that the petitioner did not satisfy the gatekeeping requirements of 28 U.S.C. § 2255(e) that would enable him to challenge his conviction and sentence pursuant to Section 2241, and he had already been denied authorization to pursue the same challenge in a second or successive action under Section 2255. (*Id.*)

The petitioner has submitted a "Response to the Court's Order," in which he asserts that "[t]his case has merits to further alter" and asks the court to grant him habeas relief. (Doc. No. 11 at 2.) The court construes this filing as a motion to alter or amend judgment pursuant to Rule 59 of the Federal Rules of Civil Procedure. "A court may grant a Rule 59(e) motion to alter or amend if there is: (1) a clear error of law; (2) newly discovered evidence; (3) an intervening change in controlling law; or (4) a need to prevent manifest injustice." *Intera Corp. v. Henderson*, 428 F.3d 605, 620 (6th Cir. 2005) (citing *GenCorp, Inc. v. Am. Int'l Underwriters*, 178 F.3d 804, 834 (6th Cir. 1999)).

The petitioner does not demonstrate circumstances satisfying any of those requirements.

He simply reasserts his entitlement to relief. Nothing about the petitioner's motion persuades the court that its previous ruling on his claims was in error or otherwise unjust. The petitioner's motion is, therefore, **DENIED**.

The court's previous order (Doc. No. 7) was the final order denying all relief in this case. The Clerk **SHALL** enter judgment. Fed. R. Civ. P. 58(b).

It is so **ORDERED**.

Aleta A. Trauger
United States District Judge