

# United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Submitted November 8, 2023

Decided November 13, 2023

Before

DIANE S. SYKES, *Chief Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

No. 22-3233

BRENT J. DAIGLE,  
*Petitioner-Appellant,*

Appeal from the United States District  
Court for the Southern District of  
Indiana, Terre Haute Division.

*v.*

No. 2:22-cv-00538

STEVE KALLIS,  
*Respondent-Appellee.*

James P. Hanlon,  
*Judge.*

## ORDER

Brent Daigle appeals the denial of his motion to cease his confinement at the United States Penitentiary in Terre Haute, Indiana. Because Daigle was challenging convictions and sentences imposed by a federal court in North Dakota, the district court here construed the motion as a petition for a writ of habeas corpus under 28 U.S.C. § 2241 and the saving clause of § 2255(e). But § 2255(e) bars habeas corpus review of a federal prisoner's conviction or sentence unless a motion to vacate under § 2255(a) "is inadequate or ineffective to test the legality of his detention." In *Jones v. Hendrix*, the Supreme Court held that the § 2255 remedy is not inadequate or ineffective merely because of a court's previous error in applying the law. 599 U.S. 465, 480 (2023).

APPENDIX "A"

Daigle contends that because of various perceived errors in applying the Federal Rules of Criminal Procedure, the North Dakota district court lacked jurisdiction to convict him. But *Jones* squarely forecloses any argument that a motion to vacate is inadequate or ineffective because of an asserted legal error by the sentencing court. Moreover, a § 2255 applicant is expressly authorized to argue, to the sentencing judge, that the court had been "without jurisdiction." 28 U.S.C. § 2255(a). To be sure, Daigle maintains that *Jones* does not apply because he is not seeking habeas corpus, only a cease-and-desist order against his imprisonment. But it is the substance of his claim that controls, not the caption of his filing. See *Melton v. United States*, 359 F.3d 855, 857 (7th Cir. 2004). His collateral attack on his conviction and sentence, brought in his district of confinement, is in substance a habeas corpus petition and must satisfy the saving clause to proceed.

Daigle otherwise insists that because he is challenging the North Dakota court's jurisdiction to convict him, even its rulings that it did have jurisdiction are void. A court, however, always has jurisdiction to determine its own jurisdiction, and a court's ruling on jurisdiction is protected against collateral attack in the same manner as other rulings. See *In re Edwards*, 962 F.2d 641, 644 (7th Cir. 1992). Because § 2255(e) does not permit resort to habeas corpus to bring such a collateral attack, the district court's judgment is SUMMARILY AFFIRMED. Daigle's motions to proceed in forma pauperis and for other relief are DENIED.

# UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen  
United States Courthouse  
Room 2722 - 219 S. Dearborn Street  
Chicago, Illinois 60604



Office of the Clerk  
Phone: (312) 435-5850  
[www.ca7.uscourts.gov](http://www.ca7.uscourts.gov)

## NOTICE OF ISSUANCE OF MANDATE

January 19, 2024

To: Roger A. G. Sharpe  
UNITED STATES DISTRICT COURT  
Southern District of Indiana  
104 U.S. Courthouse  
Terre Haute, IN 47807

No. 22-3233	BRENT J. DAIGLE, Petitioner - Appellant  v.  STEVE KALLIS, Warden, Respondent - Appellee
<b>Originating Case Information:</b>	
District Court No: 2:22-cv-00538-JPH-MJD Southern District of Indiana, Terre Haute Division District Judge James P. Hanlon	

Herewith is the mandate of this court in this appeal, along with the Bill of Costs, if any. A certified copy of the opinion/order of the court and judgment, if any, and any direction as to costs shall constitute the mandate.

RECORD ON APPEAL STATUS:

No record to be returned

form name: c7\_Mandate (form ID: 135)

APPENDIX "A"

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

BRENT JOSEPH DAIGLE,

Petitioner,

v.

WARDEN,

Respondent.

No. 2:22-cv-00538-JPH-MJD

**Order Denying Petition for Writ of Habeas Corpus and  
Directing Entry of Final Judgment**

Brent Daigle seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241, contending his underlying criminal judgment is void because the court lacked jurisdiction over him. *See* Dkt. 1. For the reasons that follow, his petition is **denied**.

**I. Background**

Mr. Daigle pled guilty to several charges involving sexual exploitation of minors and was sentenced to 840 months imprisonment. *United States v. Daigle*, No. 3:16-cr-00013-PDW-1 (D. N.D. 2016) (Dkt. 119). His direct appeal was affirmed. *See United States v. Daigle*, 947 F.3d 1076, 1085 (8th Cir. 2020). His motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 was denied. *Daigle*, No. 3:16-cr-00013-PDW-1 (Dkt. 174). His appeal of that denial was dismissed. *See Daigle v. United States*, No. 22-1551 (8th Cir. 2022).

Mr. Daigle now seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241. He requests a "cease and desist order / injunction" on the grounds that his underlying criminal judgment is "void." Dkt. 1 at 1. Mr. Daigle stresses that "the United States fails to state a jurisdictional basis for [his underlying] suit," and he adds that he is being held "captive . . . with no jurisdiction." *Id.* at 2; *see also id.* at 3 ("A judgment rendered by a court without personal jurisdiction over the

defendant is void."); *id.* at 4 ("The United States District Court for the District of North Dakota (Eastern) has no standing to pronounce upon law's meaning or constitutionality when it has no jurisdiction to do so[] but acts in clear lack of jurisdiction."). The Court understands Mr. Daigle to argue that the underlying criminal court lacked jurisdiction to enter judgment against him.

## II. Legal Standard

Rule 4 of the Rules Governing Section 2254 Cases authorizes district courts to screen and dismiss habeas corpus petitions that lack merit. *See* Rule 4 ("If it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition[.]"); *see also Szemborski v. Endicott*, 175 F.3d 1021, 1021 (7th Cir. 1999) ("[Rule 4] provides district courts the power to dismiss both petitions that do not state a claim upon which relief can be granted and those petitions which are factually frivolous."). This is appropriate when it is clear from the face of the petition that the petitioner is not entitled to any relief. *Small v. Endicott*, 998 F.2d 411, 414 (7th Cir. 1993) ("When the fact of the petition plus any annexed exhibits plainly show that the petitioner is not entitled to relief, the district court can summarily dispose of the matter[.]").

## III. Discussion

In this Circuit, "[a] federal prisoner may use a § 2241 petition for a writ of habeas corpus to attack his conviction or sentence only if § 2255 is 'inadequate or ineffective.'" *Hill v. Werlinger*, 695 F.3d 644, 645 (7th Cir. 2012) (quoting 28 U.S.C. § 2255(e)). Section 2255 is inadequate or ineffective if the following three requirements are met: (1) "the petitioner must rely on a statutory interpretation case because (unlike constitutional cases) § 2255[] contains no exception for statutory interpretation cases"; (2) "the petitioner must establish that he was unable to raise his statutory claim when he filed his original § 2255 motion and that the statutory interpretation

decision relied upon applies retroactively"; and (3) "the legal error that would result from denying § 2241 relief must be grave enough to be deemed a miscarriage of justice." *Brown v. Krueger*, 25 F.4th 526, 528 (7th Cir. 2022) (cleaned up).

Here, none of the requirements are present. Mr. Daigle's argument that the North Dakota Courts lack jurisdiction is based on Article III of the Constitution, not a case involving statutory interpretation. Mr. Daigle has not shown his claim was unavailable when he filed his original § 2255 petition. *Bennett v. United States*, 119 F.3d 470, 472 (7th Cir. 1997) ("You cannot file a successive habeas corpus or section 2255 case on the basis of a claim that is not newly available."). In fact, he raised this claim in the court of his conviction. *Daigle*, No. 3:16-cr-00013-PDW-1 at (Dkt. 192) (Order on Motion to Compel) ("Daigle moves to compel this Court to immediately release him from custody, as the Court lacks jurisdiction. No authority exists to support Daigle's motion, and his argument is without any merit."). Finally, Mr. Daigle has not shown the legal error would be deemed a miscarriage of justice—especially since he recently raised this argument in his underlying criminal case, and it was rejected. *Id.* Accordingly, Petitioner has not shown § 2255 was inadequate or ineffective, and so relief under § 2241 is unavailable to him. *Hill*, 695 F.3d at 645.

### III. Conclusion

For those reasons, Mr. Daigle's petition for a writ of habeas corpus pursuant to § 2241 is **denied**. Judgment consistent with this order shall now issue.

**SO ORDERED.**

Date: 12/2/2022

James Patrick Hanlon  
James Patrick Hanlon  
United States District Judge  
Southern District of Indiana

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

BRENT JOSEPH DAIGLE,

Petitioner,

v.

WARDEN,

Respondent.

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No. 2:22-cv-00538-JPH-MJD

**Final Judgment**

The Court now enters FINAL JUDGMENT in favor of Respondent and against Petitioner.

Brent Daigle's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 is **dismissed with prejudice.**

Date: 12/2/2022

James Patrick Hanlon

James Patrick Hanlon  
United States District Judge  
Southern District of Indiana

Roger A. G. Sharpe, Clerk of Court

By:

Pam Pope  
Deputy Clerk

Distribution:

BRENT JOSEPH DAIGLE  
15800-059  
TERRE HAUTE - USP  
TERRE HAUTE U.S. PENITENTIARY  
Inmate Mail/Parcels  
P.O. BOX 33  
TERRE HAUTE, IN 47808

APPENDIX "B"

# United States Court of Appeals

for the Seventh Circuit

Chicago, Illinois 60604

January 2, 2024

Before

DIANE S. SYKES, *Chief Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

No. 22-3233

BRENT J. DAIGLE,  
*Petitioner-Appellant,*

*v.*

STEVE KALLIS, Warden,  
*Respondent-Appellee.*

Appeal from the United States District  
Court for the Southern District of  
Indiana, Terre Haute Division.

No. 2:22-cv-00538

James P. Hanlon,  
*Judge.*

## ORDER

On consideration of the petition for rehearing, all judges voted to deny rehearing. It is therefore ordered that the petition for panel rehearing is DENIED.

APPENDIX "C"



United States Court of Appeals  
for the Seventh Circuit  
Chicago, Illinois 60604

January 4, 2024

Before

DIANE S. SYKES, *Chief Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

No. 22-3233

BRENT J. DAIGLE,  
*Petitioner-Appellant,*

*v.*

STEVE KALLIS, Warden,  
*Respondent-Appellee.*

Appeal from the United States District  
Court for the Southern District of  
Indiana, Terre Haute Division.

No. 2:22-cv-00538

James P. Hanlon,  
*Judge.*

ORDER

On consideration of the petition for rehearing, all judges voted to deny rehearing. It is therefore ordered that the petition for panel rehearing is DENIED.

APPENDIX "C"

# UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen  
United States Courthouse  
Room 2722 - 219 S. Dearborn Street  
Chicago, Illinois 60604



Office of the Clerk  
Phone: (312) 435-5850  
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## ORDER

February 1, 2023

By the Court:

No. 22-3233	BRENT J. DAIGLE, Petitioner - Appellant  v.  STEVE KALLIS, Warden, Respondent - Appellee
<b>Originating Case Information:</b>	
District Court No: 2:22-cv-00538-JPH-MJD Southern District of Indiana, Terre Haute Division District Judge James P. Hanlon	

On November 1, 2022, the Supreme Court of the United States heard oral argument in *Jones v. Hendrix*, No. 21-857 (U.S.). That case presents questions about the scope of review of federal convictions and sentences under 28 U.S.C. § 2241 and the saving clause of § 2255(e). Accordingly, in this appeal from the denial of saving-clause review,

**IT IS ORDERED** that Petitioner-Appellant Brent Daigle shall have until March 2, 2023, to file a **POSITION STATEMENT** addressing whether this appeal should be held pending the Supreme Court's decision in *Jones v. Hendrix*.

**IT IS FURTHER ORDERED** that if the Petitioner-Appellant does not wish this court to hold this appeal, then his position statement also shall identify any nonfrivolous grounds for arguing that his claim satisfies this court's current saving-clause test—including the requirement that he rely upon a judicial change in statutory interpretation, not constitutional law, that took place after his first § 2255 motion. See *Chazen v. Marske*, 938 F.3d 851, 856 (7th Cir. 2019) (outlining test). Failure to timely respond may result in dismissal of this appeal. Briefing is otherwise **SUSPENDED** pending further order of the court.

# UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen  
United States Courthouse  
Room 2722 - 219 S. Dearborn Street  
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## ORDER

July 19, 2023

*By the Court:*

No. 22-3233	BRENT J. DAIGLE, Petitioner - Appellant
	v.  STEVE KALLIS, Warden, Respondent - Appellee
<b>Originating Case Information:</b>	
District Court No: 2:22-cv-00538-JPH-MJD Southern District of Indiana, Terre Haute Division District Judge James P. Hanlon	

In *Jones v. Hendrix*, No. 21-857, 2023 WL 4110233, at \*4, 7 (U.S. June 22, 2023), the Supreme Court held that federal prisoners' inability to satisfy 28 U.S.C. § 2255(h) does not permit them to pursue a habeas corpus petition challenging the legality of their convictions or sentences under § 2241 and the saving clause of § 2255(e). Accordingly,

**IT IS ORDERED** that Petitioner-Appellant Brent J. Daigle shall file, on or before August 18, 2023, a position statement explaining why this court should not dismiss this appeal or summarily affirm the district court's denial of saving-clause relief in light of *Jones*.

Alternatively, if in light of *Jones* Petitioner-Appellant does not wish to proceed with this appeal, he may file a voluntary dismissal of the appeal under Rule 42(b) of the Federal Rules of Appellate Procedure.

Failure to timely respond to this order may result in dismissal of this appeal. Briefing is otherwise **SUSPENDED** pending further order of the court.

# UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen  
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## ORDER

December 1, 2023

*By the Court:*

No. 22-3233	BRENT J. DAIGLE, Petitioner - Appellant v. STEVE KALLIS, Warden, Respondent - Appellee
<b>Originating Case Information:</b>	
District Court No: 2:22-cv-00538-JPH-MJD Southern District of Indiana, Terre Haute Division District Judge James P. Harlon	

The following is before the court:

1. **NOTICE OF CONSIDERATION: OBJECTION TO PROPOSED ORDER**, filed on November 27, 2023, by the pro se appellant.
2. **JUDICIAL NOTICE OF ADJUDICATIVE FACT**, filed on November 27, 2023, by the pro se appellant.
3. **OBJECTION TO PROPOSED ORDER**, filed on November 27, 2023, by the pro se appellant,

**IT IS ORDERED** that appellant's objections will be filed without court action. If appellant wishes for the court to rehear his case, then he may file a single petition for rehearing that complies with Rule 40 of the Federal Rules of Appellate Procedure on or before December 28, 2023.

**Eighth Circuit Court of Appeals**

**PRO SE Notice of Docket Activity**

The following was filed on 10/26/2022

Case Name: In re: Brent Daigle

Case Number: 22-3058

**Docket Text:**

DOCUMENT FILED - "Judgment Void" received from Appellant Mr. Brent Daigle. No action taken. [5212214] [22-3058]

The following document(s) are associated with this transaction:

Document Description: "Judgment Void"

Notice will be mailed to:

Mr. Brent Daigle  
U.S. PENITENTIARY  
15800-059  
P.O. Box 33  
Terre Haute, IN 47808-0033

Notice will be electronically mailed to:

**NOTE:** Correspondence was forwarded by Millie B. Adams, Circuit Executive Judicial Council of the Eighth Circuit, not appellant.

**NOTE:** "Either a judgment is valid or it is void, and the court must act accordingly once the issue is resolved" In re Marriage of Hampshire, 261 Kan. 854, 862, 934 P.2d 58 (1997)

**NOTE:** A Void judgment, can not have "No action", discretion has no place for operation!

**NOTE:** The Void Judgment was on # 3:16-cr-00013-PDW, Related; 3:21-cr-00059-PDW, Related; 18-2603 USCA8, Related; 19-1600 usca8, Related; 22-1551, Related; 22-3058