

A P P E N D I X (B)

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

UNITED STATES OF AMERICA : CRIMINAL NO.

v. : DATE FILED: April 25, 2013

CHRISTIAN DIOR WOMACK, : VIOLATIONS:

a/k/a "Gucci Prada," : 18 U.S.C. § 1591 (sex trafficking of

RASHIDAH BRICE, : a minor or by force - 1 count);

a/k/a "Camille," : 18 U.S.C. § 1591 (sex trafficking by

a/k/a "Milly" : force - 2 counts);

: 18 U.S.C. § 1594(a) (attempt)

: 18 U.S.C. § 2 (aiding and abetting)

: Notice of Forfeiture

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

1. At all times material to this indictment, defendants CHRISTIAN DIOR WOMACK, a/k/a "Gucci Prada," and RASHIDAH BRICE, a/k/a "Camille," a/k/a "Milly," were the operators of a prostitution venture in Philadelphia, Pennsylvania, and elsewhere.

2. As part of this venture, defendants CHRISTIAN DIOR WOMACK, a/k/a "Gucci Prada," and RASHIDAH BRICE, a/k/a "Camille," a/k/a "Milly," recruited young females to work as prostitutes for them. Defendants CHRISTIAN DIOR WOMACK, a/k/a "Gucci Prada," and RASHIDAH BRICE, a/k/a "Camille," a/k/a "Milly," engaged in acts of physical violence and threats of physical harm to maintain the participation of females in their prostitution business.

3. As part of this venture, defendants CHRISTIAN DIOR WOMACK, a/k/a "Gucci Prada," and RASHIDAH BRICE, a/k/a "Camille," a/k/a "Milly," created Internet

advertisements in which they advertised these females as available for purchase for purposes of prostitution. The advertisements featured pictures of the females scantily clad, and provided a phone number to call to arrange a meeting with the females.

4. Between on or about May 25, 2012, through on or about June 11, 2012, in the Eastern District of Pennsylvania and elsewhere, defendant

CHRISTIAN DIOR WOMACK,
a/k/a "Gucci Prada," and
RASHDAH BRICE,
a/k/a "Camille,"
a/k/a "Milly,"

in and affecting interstate commerce, knowingly recruited, enticed, harbored, transported, provided, obtained, and maintained Minor 1, whose identity is known to the Grand Jury, and benefitted financially from participation in a venture which engaged in the knowing recruitment, enticement, harboring, transporting, providing, obtaining, and maintaining of Minor 1, and attempted to do so. At the time that defendants CHRISTIAN DIOR WOMACK and RASHDAH BRICE did this, they knew and acted in reckless disregard of the fact that Minor 1 had not reached the age of 18 and would be caused to engage in commercial sex acts, and that force, threats of force, fraud, coercion, and any combination of such means would be used to cause Minor 1 to engage in commercial sex acts.

In violation of Title 18, United States Code, Sections 1591 and 1594(a).

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. The allegations of Paragraphs 1 through 3 of Count One are incorporated by reference.
2. Between on or about June 26, 2012, through on or about July 2, 2012, in the Eastern District of Pennsylvania and elsewhere, defendant

CHRISTIAN DIOR WOMACK,
a/k/a "Gucci Prada," and
RASHIDAH BRICE,
a/k/a "Camille,"
a/k/a "Milly,"

in and affecting interstate commerce, knowingly attempted to recruit, entice, harbor, transport, provide, obtain, and maintain Person 2, whose identity is known to the Grand Jury, and attempted to benefit financially from participation in a venture which engaged in the knowing recruitment, enticement, harboring, transporting, providing, obtaining, and maintaining of Person 2. At the time that defendants CHRISTIAN DIOR WOMACK and RASHIDAH BRICE did this, they knew and acted in reckless disregard of the fact that force, threats of force, fraud, coercion, and any combination of such means would be used to attempt to cause Person 2 to engage in commercial sex acts.

In violation of Title 18, United States Code, Sections 1591 and 1594(a).

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

1. The allegations of Paragraphs 1 through 3 of Count One are incorporated by reference.
2. Between on or about February 1, 2013, through on or about February 3, 2013, in the Eastern District of Pennsylvania and elsewhere, defendant

CHRISTIAN DIOR WOMACK,
a/k/a "Gucci Prada," and
RASHIDAH BRICE,
a/k/a "Camille,"
a/k/a "Milly,"

in and affecting interstate commerce, knowingly attempted to recruit, entice, harbor, transport, provide, obtain, and maintain Person 3, whose identity is known to the Grand Jury, and attempted to benefit financially from participation in a venture which engaged in the knowing recruitment, enticement, harboring, transporting, providing, obtaining, and maintaining of Person 3. At the time that defendants CHRISTIAN DIOR WOMACK and RASHIDAH BRICE did this, they knew and acted in reckless disregard of the fact that force, threats of force, fraud, coercion, and any combination of such means would be used to attempt to cause Person 3 to engage in commercial sex acts.

In violation of Title 18, United States Code, Sections 1591 and 1594(a).

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Section 1591, set forth in this Indictment, defendants

CHRISTIAN DIOR WOMACK,
a/k/a "Gucci Prada," and
RASHIDAH BRICE,
a/k/a "Camille,"
a/k/a "Milly,"

shall forfeit to the United States of America:

(a) any property, real or personal, used or intended to be used to commit, or to facilitate the commission of such violations; and

(b) any property, real or personal, constituting or derived from, any proceeds obtained directly or indirectly as a result of such violations.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

A P P E N D I X (C)

UNITED STATES OF AMERICA v. CHRISTIAN DIOR WOMACK, a/k/a Gucci Prada Christian

Womack, Appellant

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

646 Fed. Appx. 258; 2016 U.S. App. LEXIS 6334

No. 14-4787

March 4, 2016, Submitted Under Third Circuit L.A.R. 34.1(a)

April 7, 2016, Filed

Notice:

**NOT PRECEDENTIAL OPINION UNDER THIRD CIRCUIT INTERNAL OPERATING PROCEDURE
RULE 5.7. SUCH OPINIONS ARE NOT REGARDED AS PRECEDENTS WHICH BIND THE
COURT. PLEASE REFER TO FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1
GOVERNING THE CITATION TO UNPUBLISHED OPINIONS.**

Editorial Information: Subsequent History

US Supreme Court certiorari denied by *Womack v. United States*, 580 U.S. 1013, 137 S. Ct. 530, 196 L. Ed. 2d 430, 2016 U.S. LEXIS 6936, 2016 WL 6269076 (Nov. 28, 2016)US Supreme Court certiorari denied by *Womack v. United States*, 580 U.S. 1010, 137 S. Ct. 521, 196 L. Ed. 2d 424, 2016 U.S. LEXIS 6999, 2016 WL 6037103 (Nov. 28, 2016)Petition denied by, Without prejudice In re *Womack*, 791 Fed. Appx. 368, 2020 U.S. App. LEXIS 2798, 2020 WL 429076 (3d Cir. Pa., Jan. 28, 2020)Petition denied by In re *Womack*, 828 Fed. Appx. 852, 2020 U.S. App. LEXIS 35847, 2020 WL 6708593 (3d Cir. Pa., Nov. 16, 2020)Petition denied by In re *Womack*, 839 Fed. Appx. 768, 2021 U.S. App. LEXIS 7543, 2021 WL 979255 (3d Cir. Pa., Mar. 16, 2021)Motion denied by *United States v. Womack*, 2022 U.S. App. LEXIS 36476 (3d Cir., Oct. 7, 2022)

Editorial Information: Prior History

{2016 U.S. App. LEXIS 1}On Appeal from the United States District Court for the Eastern District of Pennsylvania. (D.C. No. 2-13-cr-00206-001). District Judge: Honorable Mitchell S. Goldberg. In re *Womack*, 606 Fed. Appx. 638, 2015 U.S. App. LEXIS 9393, 2015 WL 3514707 (3d Cir. Pa., June 5, 2015)

Counsel

For UNITED STATES OF AMERICA, Plaintiff - Appellee: Michelle Morgan, Esq., Melanie B. Wilmoth, Esq., Office of United States Attorney, Philadelphia, PA.

For CHRISTIAN DIOR WOMACK, a/k/a Gucci Prada (#69121-066), Defendant - Appellant: Matthew Stiegler, Esq., Philadelphia, PA.

Judges: Before: MCKEE, Chief Judge, SMITH, and HARDIMAN, Circuit Judges.

CASE SUMMARYDistrict court's statements about its reluctance to impose a life sentence did not establish that the district court lacked an understanding of its authority to vary below the USSG range; the district court knew that the Guidelines were advisory, applied the 18 U.S.C.S. § 3553(a) factors, and imposed a sentence it deemed appropriate.

OVERVIEW: HOLDINGS: [1]-When a district court's statements about its reluctance to impose a life sentence were considered in context, they did not establish that the district court lacked an understanding about its authority to vary below the U.S. Sentencing Guidelines range. The district court knew that the Guidelines were advisory, applied the 18 U.S.C.S. § 3553(a) factors, and imposed a

sentencing. Because Womack neither objected to the District Court's calculation of his Guidelines range nor otherwise objected to the process by which the Court sentenced him, we review this argument for plain error. *United States v. Flores-Mejia*, 759 F.3d 253, 256 (3d Cir. 2014) (en banc); Fed. R. Crim. P. 52(b). Our review of the record leads us to conclude that the District Court committed neither plain error nor {2016 U.S. App. LEXIS 6} any error at all.

Womack first claims the District Court relegated its own judgment to that of the United States Sentencing Commission and Congress. It did so, he argues, by presuming that a within-Guidelines sentence was reasonable instead of exercising independent judgment as required by clearly established federal law. See, e.g., *Nelson v. United States*, 555 U.S. 350, 129 S. Ct. 890, 172 L. Ed. 2d 719 (2009). He contends further that the Court's failure to explain why a life sentence was "not greater than necessary" as required by § 3553(a) underscores the unreasonableness of its process. Counsel for Womack does a good job citing discrete statements made by the judge at sentencing that, if taken in isolation, evince a lack of understanding about the Court's power to vary below the {646 Fed. Appx. 261} range established by the Guidelines. For example, the judge said that he "personally [doesn't] believe that a life sentence is appropriate" for Womack because of his "old school" view that life sentences are appropriate only when "there's [been] a loss of life." App. 74. The trial judge also said he was "obligated" to give "great deference" to the Guidelines and that "the only way [he could] deviate" from them was to find a "reasonable basis" to do so. Womack Br. 12 (quoting App. 75). Womack construes {2016 U.S. App. LEXIS 7} these words as an unlawful presumption in favor of the Guidelines, *Gall v. United States*, 552 U.S. 38, 50, 128 S. Ct. 586, 169 L. Ed. 2d 445 (2007), and blames that presumption for the Court's mistaken belief that it was "require[d] . . . [to] impose a life sentence." App. 77.

As persuasive as Womack's arguments may be when the sentencing judge's Januslike statements are considered in isolation, they ultimately fail to persuade. We review the sentencing transcript in its entirety, and when the District Court's statements are considered in context, they demonstrate that the trial judge knew the Guidelines were advisory, applied the relevant factors of 18 U.S.C. § 3553(a), and imposed a sentence he deemed appropriate under the law of the land. The Court's closing remarks are instructive:

[W]eighing all those factors together, and giving the defendant every single benefit of the doubt, I can't in good conscience conclude that these are appropriate legal bases for a variance. And as much as I do not *personally* want to do this, the law in my view, requires that I impose a life sentence and that is my sentence. App. 77 (emphasis added).

In sum, as the Government persuasively argued: "if the sentence were up to [the trial judge] alone, he would not apply a life sentence; but he is a judge who is required to decide {2016 U.S. App. LEXIS 8} the appropriate sentence based on factors decreed by statute, and those factors include the guideline range." Br. at 23. So constrained, the trial judge properly refused to allow personal predilection to trump sober legal judgment. Accordingly, there was no procedural error.

III

Womack next challenges his sentence on substantive grounds. A sentence is substantively unreasonable only if "no reasonable sentencing court would have imposed the same sentence on that particular defendant for the reasons the district court provided." *United States v. Tomko*, 562 F.3d 558, 568 (3d Cir. 2009) (en banc). Womack fails to meet this exacting standard. In seeking to invalidate his within-Guidelines sentence, Womack offers several mitigating factors: (1) he did not severely hurt or kill any of his victims; (2) two of the victims never actually engaged in prostitution; (3) his "minor" victim was nearly 18 and lived on her own; (4) his life sentence was the

result of five upward adjustments under the Guidelines; (5) his criminal record included relatively minor offenses; (6) he suffered from mental health issues; and (7) the PSR suggested that a sentence of less than life may be appropriate. Womack cites our decision in *United States v. Olhovsky* to argue that {2016 U.S. App. LEXIS 9} no rational judge could conclude that he deserves to spend the rest of his life in prison. 562 F.3d 530, 553 (3d Cir. 2009).

As for Womack's factual arguments, the record reflects that the District Court took full cognizance of all of the mitigating factors he proffered and it is not our place to reweigh them on appeal. Regarding his legal theory, *Olhovsky* doesn't carry the day for Womack because that case involved procedural unreasonableness in addition to substantive error in this case, we must evaluate the why {646 Fed. Appx. 262} there was no procedural error on its own terms. Under that deferential standard, we conclude that the District Court did not err when it sentenced Womack within the Guidelines range for crimes that the Court aptly found to be of a "heinous horrible horrific nature." App. 71.

IV

For the reasons stated, we will affirm the District Court's judgment of sentence.

Footnotes

*

This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

1

The District Court had jurisdiction under 18 U.S.C. § 3231. We have jurisdiction under 28 U.S.C. § 1291 and 18 U.S.C. § 3742(a).

V A P P E N D I X (D)

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

Criminal Action
No. 13-cr-206-1

UNITED STATES OF AMERICA,
Plaintiff,
v.
CHRISTIAN DIOR WOMACK,
Defendant.

ORDER

AND NOW, this 12th day of July, 2023, upon consideration of numerous motions filed by Defendant Christian Dior Womack, which include: Motion to vacate sentence (ECF No. 287); Motions to amend a motion to vacate sentence (ECF Nos. 334, 335); Motions to replace or remove current counsel (ECF Nos. 337, 383); Motion for sanctions (ECF No. 358); Motion to stay consideration of the motion for sanctions (ECF No. 357); Motion to compel the Government to correct its misstatements (ECF No. 381); Petition for a writ of mandamus regarding the Government's alleged misstatements (ECF No. 400); Motion to expand the record (ECF No. 395); Motion to stay habeas proceedings (ECF No. 396); and Petition for a writ of mandamus regarding a Covid-19 Economic Impact Payment (ECF No. 342); and the responses, replies, and supplemental filings pertaining thereto, and following an evidentiary hearing held on March 2, 2022, I find as follows:

I. MOTION TO VACATE SENTENCE

1. On December 18, 2014, I sentenced Christian Womack to life imprisonment for sex trafficking by force of a minor and attempted sex trafficking by force of two adult victims, which was affirmed on direct appeal. United States v. Womack, 646 F. App'x 258, 261 (3d Cir. 2016),

cert. denied, 137 S. Ct. 521. On July 17, 2017, Womack filed a motion to vacate his sentence pursuant to 28 U.S.C. § 2255, which has subsequently been amended and supplemented multiple times.

2. On November 6, 2020, I issued an order denying the majority of Womack's claims. I determined that a hearing would be held as to Womack's two remaining claims: (1) that trial counsel (initially backup counsel) was ineffective for failing to convey a 25-year plea offer from the Government; and (2) that newly discovered evidence shows that Womack is innocent. (ECF No. 299.) I appointed an experienced federal criminal practitioner, Richard Fuschino, as counsel for Womack.

3. A hearing on Womack's remaining § 2255 claims was held on March 2, 2022. Trial counsel (Kenneth Edelin) and two Assistant United States Attorneys involved in Womack's prosecution (Melanie Wilmoth and Michelle Morgan) testified at the hearing. All three denied that the Government had ever communicated a 25-year plea offer. Womack did not testify at the hearing.

4. Before and after the hearing, Womack filed numerous supplements and proposed amendments to his § 2255 motion, which mostly expanded on claims that were denied in my November 6, 2020 Order. For the reasons explained below, none of these amended claims have merit, and I therefore need not reach whether amendment would be proper.

A. Failure to Convey a 25-Year Plea Offer

5. I find credible the consistent testimony of trial counsel and the two AUSAs that the Government never extended a 25-year offer to trial counsel. Their testimony is also consistent with the discussion of a possible 30-year plea offer that occurred on the day Womack pled guilty that omitted any mention of a 25-year offer. (See N.T. 7/23/14 at 5:19-6:4, 10:24-11:11, 18:8-17.)

6. Womack did not testify under oath at the hearing, and instead only discussed the

alleged 25-year offer in his written filings. (E.g., ECF No. 256, p. 12¹.) Womack contends that a July 28, 2014 letter from trial counsel to the Court corroborates the 25-year offer. (See *id.*) A letter matching that description was offered into evidence at the hearing (Government's Exhibit 3), but nothing in the letter mentions a 25-year offer. No other letter from trial counsel mentioning a 25-year offer has been produced. (See ECF No. 380 at 2.) Womack points to no other evidence of a 25-year offer.

7. I find that the Government did not make a 25-year offer to trial counsel, and trial counsel was therefore not ineffective for failing to convey that offer to Womack. Womack's claim for ineffective assistance of counsel will, accordingly, be denied.

B. Newly Discovered Evidence

8. Womack argues that newly discovered evidence demonstrates that he is actually innocent of the crimes to which he pled guilty because the interstate commerce element is not satisfied. Specifically, Womack contends that he could not have posted the Backpack ads that were used to show a nexus to interstate commerce.

9. To satisfy the factual basis for the plea, the Government offered the fact that Womack advertised all three victims on Backpack. (N.T. 7/23/14 at 28:12-29:13, 30:2-12, 30:22-31:5.) Womack admitted to posting the Backpack ads in question. (*Id.* at 28:18-20, 30:5-7, 31:1-2, 32:22-24.) The Government explained (with Womack's agreement) that it would prove Womack posted the ads using: (1) dates on Backpack ads matching dates on hotel records; (2) phone numbers on the ads that could be traced to Womack through Sprint and T-Mobile records; (3) email addresses

¹ Page numbers refer to the sequence of pdf pages as they appear on the ECF docketing system.

in “extraordinary” cases. *Id.* “[M]ere impeachment evidence is generally not sufficient to satisfy” this standard. *Reeves*, 897 F.3d at 161.

13. Even assuming Womack could produce all the evidence he claims regarding his IP

address and Backpage’s practices, a reasonable jury would still be justified in accepting the Government’s dates, phone numbers, email addresses, and credit card numbers as proof beyond a reasonable doubt that Womack posted the ads and thus that his criminal activity was “in or affecting interstate or foreign commerce.” 18 U.S.C. § 1591(a)(1) (as amended 2006). An ad directing customers to Womack’s phone number, for a victim Womack admitted to trafficking, on a date he admitted to doing so—posted from an account using Womack’s email address—clearly points to Womack. The most Womack could show is that Backpage’s admission to editing ads could have been used as impeachment at trial. Womack has therefore not met the “demanding” standard to show that no reasonable juror would credit the Government’s evidence and find him guilty beyond a reasonable doubt.

14. To the extent Womack’s claim regarding Backpage’s practices could be viewed as one under *Brady v. Maryland*, 373 U.S. 83 (1963), for failing to turn over exculpatory evidence, it must also be denied. Womack has not established that he had a right to receive exculpatory evidence before pleading guilty. See *United States v. Ruiz*, 536 U.S. 622, 629 (2002). Moreover, Womack has not pointed to any piece of evidence that he claims the Government possessed on July 23, 2014 (the day of his guilty plea) that was not produced and that would have affected the proceedings in light of the other evidence tying Womack to the Backpage ads.

15. Finally, to the extent Womack asserts a claim for “newly discovered evidence” under Federal Rule of Criminal Procedure 33(b)(1), this provision is not available to a defendant who has pled guilty. *United States v. Miller*, 197 F.3d 644, 649 n.3 (3d Cir. 1999).

C. Issues Related to the Precise Charges to Which Womack Pled Guilty

16. In various supplemental filing, Womack re-raises a number of previously denied claims related to the precise elements of the crimes to which he pled guilty. For the reasons explained below, none of these claims has merit because they rest on technical procedural arguments without a showing of prejudice or actual innocence as required on collateral review. See Bousley v. United States, 523 U.S. 614, 622 (1998) (requiring prejudice or actual innocence to raise defaulted objection); Strickland v. Washington, 466 U.S. 668, 687 (1984) (requiring prejudice to raise ineffective assistance of counsel).

1. Insufficiency of Indictment

17. Womack first argues that the indictment was insufficient; that the Government constructively amended it; or, alternatively, that trial counsel was ineffective for failing to move to dismiss the indictment or to object to the Government's constructive amendment.

18. At the time of Womack's criminal conduct, the offense of sex trafficking of a minor or by force was defined, in relevant part, as follows:

Whoever knowingly ... in or affecting interstate ... commerce ... recruits, entices, harbors, transports, provides, or obtains by any means a person ... knowing that force, fraud, or coercion described in subsection (c)(2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

18 U.S.C. § 1591(a) (as amended 2006).

19. An associated penalty provision set the applicable mandatory minimums:

The punishment for an offense under subsection (a) is—

(1) if the offense was effected by force, fraud, or coercion or if the person recruited, enticed, harbored, transported, provided, or obtained had not attained the age of 14 years at the time of such offense, by a fine under this title and imprisonment for any term of years not less than 15 or for life; or

(2) sufficiently apprises the defendant of what he must be prepared to meet, and (3) allows the defendant is facially sufficient if it (1) contains the elements of the offense intended to be charged, ment therefore occurred. See United States v. Huet, 665 F.3d 588, 595 (3d Cir. 2012) (“[A]n in-

22. This count clearly charged that force would be used, and no constructive amend-

(Indictment at 1-2 (emphasis added).)

In violation of Title 18, United States Code, Sections 1591 and 1594(a).

to cause Minor 1 to engage in commercial sex acts.
force, fraud, coercion, and any combination of such means would be used
 would be caused to engage in commercial sex acts, and that force, threats of
 in reckless disregard of the fact that Minor 1 had not reached the age of 18 and
 TIAN DIOR WOMACK and RASHIDAH BRICE did this, they knew and acted
 taining of Minor 1, and attempted to do so. At the time that defendants CHRIS-
 cruitment, enticement, harboring, transporting, providing, obtaining, and main-
 financially from participation in a venture which engaged in the knowing re-
 maintained Minor 1, whose identity is known to the Grand Jury, and benefitted
 knowingly recruited, enticed, harbored, transported, provided, obtained, and
 WOMACK and RASHIDAH BRICE] in and affecting interstate commerce,
 Eastern District of Pennsylvania and elsewhere, defendant [CHRISTIAN DIOR
 Between on or about May 25, 2012, through on or about June 11, 2012, in the

ally provision of (b)(1). Count 1 of the indictment charged Womack, in relevant part, as follows:

21. Womack argues that Count 1 of the indictment failed to charge force under the pen-

§ 1594(a).

Whoever attempts to violate section 1581, 1583, 1584, 1589, 1590, or 1591 shall
 be punishable in the same manner as a completed violation of that section.

same as for a completed act:

20. Finally, there was an attempt statute providing that the penalty for attempt was the

§ 1591(b).

(2) if the offense was not so effected, and the person recruited, enticed,
 harbored, transported, provided, or obtained had attained the age of 14
 years but had not attained the age of 18 years at the time of such offense,
 by a fine under this title and imprisonment for not less than 10 years or
 for life.

defendant to show with accuracy to what extent he may plead a former acquittal or conviction in the event of a subsequent prosecution." (quotation marks omitted)). Although there was not a specific citation to the penalty provision in subsection (b)(1), "[u]nless the defendant was misled and thereby prejudiced, neither an error in a citation nor a citation's omission is a ground to dismiss the indictment or information or to reverse a conviction." Fed. R. Crim. P. 7(c)(2). Trial counsel was not "ineffective for failing to raise a meritless claim." Werts v. Vaughn, 228 F.3d 178, 203 (3d Cir. 2000).

23. With respect to Counts 2 and 3, Womack argues that there was a failure to charge attempt. Count 2 was charged, in relevant part, as follows:

Between on or about June 26, 2012, through on or about July 2, 2012, in the Eastern District of Pennsylvania and elsewhere, defendant [Christian Womack] in and affecting interstate commerce, knowingly **attempted** to recruit, entice, harbor, transport, provide, obtain, and maintain Person 2, whose identity is known to the Grand Jury, and attempted to benefit financially from participation in a venture which engaged in the knowing recruitment, enticement, harboring, transporting, providing, obtaining, and maintaining of Person 2. At the time that defendants CHRISTIAN DOR WOMACK and RASHIDAH BRICE did this, they knew and acted in reckless disregard of the fact that force, threats of force, fraud, coercion, and any combination of such means would be used to attempt to cause Person 2 to engage in commercial sex acts.

In violation of Title 18, United States Code, Sections 1591 and 1594(a).

(Indictment at 3 (emphasis added).)

24. This clearly charged attempt, both by name and by citation to § 1594(a). Count 3 is similar. There was accordingly no defect or constructive amendment.

2. Informing Womack of the Elements During His Plea Colloquy

25. Womack contends that he was misinformed of the elements of Count 1 during his guilty plea colloquy because he was told that the Government could prove either that the victim was a minor or that force was used, whereas the penalty provision he pled guilty to (subsection (b)(1)) required force irrespective of the victim's minor status:

THE COURT: ... Sir, all of these charges come under 1591, and sex trafficking of a minor or by force, in order to establish that, the Government would have to prove, first, that you either knowingly transported or recruited or enticed or harbored or provided or obtained or maintained a person by any means or that you benefited financially or by receiving anything of value from participation in a venture which recruited, enticed, harbored, transported, provided, obtained or maintained by any means a person that you knew or recklessly disregarded the fact that force, threats of force, fraud or coercion would be used against the person or that the person did not attain the age of 18 years old. The Government would also have to prove that you knew or recklessly disregarded the fact that the person would be caused to engage in a commercial sex act and that your conduct was in or affecting interstate or foreign commerce. And those are the elements the Government would have to prove beyond a reasonable doubt. Do you understand that, sir?

(N.T. 7/23/14 at 23:20-24:12 (emphasis added).)

26. Womack makes a similar argument with respect to the failure to inform him of the elements of attempt (i.e., intent and a substantial step) with respect to Counts 2 and 3.

27. When a defendant pleads guilty, the district court must "inform the defendant of ...

the nature of each charge to which the defendant is pleading." Fed. R. Crim. P. 11(b)(1)(G). However, Womack did not raise this objection at the time and it is therefore forfeited unless an exception to forfeiture applies. Bousley, 523 U.S. at 621. Womack has not shown an exception to forfeiture.

28. First, Womack has not shown actual innocence. Womack admitted repeatedly that

he did, in fact, use force against the victim in Count 1:

MS. MORGAN: Your Honor, on Count 1, the Defendant is pleading guilty and is charged with both sex trafficking of a minor and sex trafficking by force. Sex trafficking of a minor of the age of this minor carries a mandatory minimum penalty of 10 years. Sex trafficking by force carries a mandatory minimum penalty of 15 years. So the mandatory minimum on Count 1 is 15 years. ...

THE COURT: Do you understand all of that, sir?

MR. WOMACK: Yes.

MS. MORGAN: ... First, with respect to the person identified as minor 1 in the Indictment, ... the Government would prove that the Defendant recruited, enticed, harbored, transported, provided, obtained or maintained her or benefited financially from a venture that did one of those acts in or affecting interstate commerce, knowing or in reckless disregard of the fact that she was under the age of 18 and that force, fraud, coercion or any combination of such means would be used to cause her to engage in a commercial sexual activity.

... The Government would prove that he knew she was under the age of 18 and that he knew that force, fraud or coercion would be used to cause her to engage in commercial sexual activity and, in fact, personally engaged in force, threats of force, fraud or coercion to cause her to engage in such activities.

THE COURT: Mr. Womack, are those facts substantially accurate?

MR. WOMACK: Yes.

(N.T. 7/23/14 at 19:25-20:6, 20:15-16, 28:2-11, 29:8-13, 32:22-24.) Womack has not demonstrated that these admissions were the "product of such factors as misunderstanding, duress, or misrepresentation." Blackledge v. Allison, 431 U.S. 63, 64 (1977). Similarly, Womack agreed with the following facts showing attempt in Count 2 (and similar facts with respect to Count 3):

With respect to person 2 in the Indictment, ... the Government would prove that the Defendant recruited, enticed, actually, that the Defendant attempted to recruit, entice, harbor, provide, obtain, maintain or transport her or benefit financially from a venture that did such acts, knowing or in reckless disregard of the fact that force, fraud or coercion would be used to cause her to engage in a commercial sex act and that this conduct was in or affecting interstate commerce.

With respect to Count 2, the activity occurred several weeks later between June 26th, 2012, and July 2nd, 2012, and that within those dates, the Defendant met the victim again in Atlantic City, New Jersey, and that he attempted to cause her to engage in acts of prostitution by, among other things, posting advertisements of her on backpage and engaging in conduct toward her that included force, threats of force, fraud or coercion to cause her to engage in a commercial sex act in or affecting interstate commerce. In particular, he transported her to Pennsylvania to the same Red Roof Inn as well as to the Crown Plaza Hotel in Delaware.

(N.T. 7/23/14 at 29:14-22, 30:2-14.)

misunderstood.

32. Moreover, Womack's claim is meritless. Womack does not dispute that the factual basis for his plea was sufficient to make out attempted sex trafficking by force in Counts 2 and 3, which is the crime he was charged with, pled guilty to, and was sentenced for. Instead, Womack seems to argue that the Court silently misunderstood Counts 2 and 3 to charge completed sex trafficking and that the factual basis was insufficient for the completed crime. Womack's evidence that the Court misunderstood the charges is not persuasive, and Womack has not cited authority for the proposition that a factual basis is required for an uncharged crime that the Court silently

31. With respect to Counts 2 and 3, Womack argues that the factual basis was insufficient. No objection was raised at the time and this claim is thus forfeited unless an exception applies, which Womack has not shown. Bousley, 523 U.S. at 621.

3. Factual Basis for Plea

Strickland, 466 U.S. at 687.

30. Finally, for the same reason, Womack cannot establish that counsel was ineffective for failing to raise an objection to the plea colloquy because Womack cannot show prejudice. [the missing] element would have changed [the defendant's] decision to plead guilty").

29. Second, Womack has not shown "cause and prejudice" to excuse this forfeiture because he was not prejudiced. As quoted above, Womack was repeatedly informed that he was pleading guilty to the use of force in Count 1 and to attempt in Counts 2 and 3. Similarly, the indictment informed Womack that force was charged in Count 1 and that attempt was charged in Counts 2 and 3. And, most importantly, Womack was expressly informed that he was pleading guilty to the mandatory minimum associated with the use of force in Count 1. (N.T. 7/23/14 at 19:25-20:16.) See United States v. Sanabria-Robreno, 819 F. App'x 80, 83 (3d Cir. 2020) (finding no prejudice where "there [was] no reasonable probability that the District Court's recitation of

D. Vagueness Challenge

33. Womack contends that at the time of the alleged criminal conduct (i.e. before 2015), 18 U.S.C. § 1591 was unconstitutionally vague. I previously denied this ground in my November 6, 2020 Order, and Womack's subsequent amendments do not alter that conclusion.

34. At the time of Womack's criminal conduct, the statute read, in relevant part:

Whoever knowingly[] in or affecting interstate or foreign commerce ... recruits, entices, harbors, transports, provides, or obtains by any means a person ... knowing that force, fraud, or coercion described in subsection (c)(2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

§ 1591(a) (as amended 2006).

35. Womack contends the statute did not provide notice that "advertising" a person (such as on Backpage) fit within the proscribed verbs ("recruits, entices, harbors, transports, provides, or obtains by any means"). Womack posits that advertising is relevant because it is how the Government satisfied the "in or affecting interstate or foreign commerce" element as to Counts 2 and 3 of the Indictment.

36. However, the statute does not require that all conduct used to satisfy the interstate commerce element be independently criminal. See United States v. Wearing, 865 F.3d 553, 557 (7th Cir. 2017) (noting that the effect on interstate commerce may come from the entire criminal "scheme," not just the list of prohibited verbs). As part of the factual basis for the plea, the Government stated that Womack "transported" the victims, a verb that is listed in the statute. (N.T. 7/23/14 at 29:14-22, 30:2-14.) Therefore, Womack had notice that his conduct was criminal.

II. ALLEGED FALSE STATEMENTS BY THE GOVERNMENT

37. Womack complains about the following statements in the Government's October 1, 2018 brief in opposition to Womack's § 2255 motion:

Next, the petitioner claims that in accepting his plea, the Court failed to indicate whether the plea was to sex trafficking of a minor or sex trafficking by force, and failed to “properly evaluate the mandatory minimums,” and that counsel was ineffective for not objecting. The petitioner is wrong.

During the plea colloquy, the government stated that the petitioner was pleading guilty on Count 1 to both sex trafficking of a minor and by force, resulting in a mandatory minimum term of 15 years (rather than 10 if no force had been used). Tr. 20 (July 23, 2014). The government also stated that Counts 2 and 3 charged sex trafficking by force and similarly each carried a mandatory minimum of 15 years. Id. Thus, government counsel explained, the total possible sentence was a mandatory minimum of 15 years per count, 45 years if ordered to run consecutive, and a maximum term of life. Id. All of this information was legally correct. See 18 U.S.C. §1591(b)(1).

(ECF No. 275 at 13-14 (emphasis added).)

38. Womack complains that bolded statement is false because the indictment actually charged attempted sex trafficking by force in Counts 2 and 3.

39. I disagree, and conclude that the Government’s brief contained no false statements. The quoted portion discusses whether Womack was aware that he was pleading guilty to sex trafficking by force (as opposed to “of a minor or by force”), because that is the trigger for the 15-year mandatory minimum, both for the completed and attempted crime. Any discussion of attempt was irrelevant, since “[w]hoever attempts to violate section ... 1591 shall be punishable in the same manner as a completed violation of that section.” § 1594(a). The Government’s abbreviated summary of the charges was therefore accurate and had no risk of misleading the Court.

40. Womack’s request for sanctions and related requests will therefore be denied.

III. REQUEST FOR NEW COUNSEL OR TO PROCEED PRO SE

41. Womack’s request for new counsel is denied for the reasons stated at the evidentiary hearing. (N.T. 3/2/22 at 6:8-23, 65:25-66:7.)

42. The Government and Mr. Fuschino do not oppose Womack's request to proceed pro se. I conclude there is no reason to prohibit Womack, who continues to make numerous pro se filings, from proceeding pro se. That request will therefore be granted.

43. However, there is no basis to conduct another evidentiary hearing or receive additional filings from Womack in his pro se capacity. First, with respect to Womack's desire to present his aunt's testimony, this relates only to the propriety of trial counsel (Edelin) switching from appointed to retained counsel, which was not one of the two issues on which a hearing was granted. (N.T. 3/2/22 at 62:4-63:22.) The alleged decision to retain Edelin occurred after Womack pled guilty and so could not have affected the validity of his plea. (*Id.* at 64:2-8.) This Court and the Third Circuit have already dealt with the propriety of Edelin accepting payment. *United States v. Womack*, 749 F. App'x 136, 139 (3d Cir. 2018). Any further testimony on this subject would be irrelevant.

44. Second, any evidence Womack wishes to present related to Backpage is irrelevant. For the reasons discussed previously, even assuming Womack's evidence proves everything he says it will prove, he is not entitled to relief.

45. Finally, Womack has been permitted to file briefs pro se, (*see* N.T. 3/2/22 at 66:16-22,) and has done so numerous times, including a supplemental 25-page brief filed after the hearing (ECF No. 360). Thus, Womack has had a full opportunity to present the points on which he disagrees with Mr. Fuschino.

46. I will therefore grant Womack's request to remove Mr. Fuschino as counsel but will not conduct any further proceedings.

IV. ECONOMIC IMPACT PAYMENT

47. Womack alleges that his COVID-19 Economic Impact Payment (EIP) was withheld

to cover his restitution obligation pursuant to the Treasury Offset Program, which Womack argues

was unlawful because: (1) he is in compliance with the restitution order in that he is making all payments under the Inmate Financial Responsibility Program; and (2) he did not receive notice as required under the Program. (See ECF No. 342, p. 4.)

48. Although it does not appear that the Third Circuit has addressed the question, the D.C. Circuit has held that a motion in the sentencing court is an appropriate procedure to review application of the Treasury Offset Program to a restitution judgment. United States v. Hughes, 813 F.3d 1007, 1009-10 (D.C. Cir. 2016). I will thus consider Womack's argument on the merits.

49. Womack was ordered to pay the full restitution amount "immediately." (N.T. 12/18/14 at 53:23-55:5.) He was also ordered to participate in the Inmate Financial Responsibility Program. (Id.) No further payment schedule for restitution payments was ordered.

50. "When a restitution order specifies an installment plan, unless there is language directing that the funds are also immediately due, the government cannot attempt to enforce the judgment beyond its plain terms absent a modification of the restitution order or default on the payment plan." United States v. Hughes, 914 F.3d 947, 949 (5th Cir. 2019). Here, however, the restitution order did not specify an installment plan but instead stated that Womack's restitution was due "immediately." "Even though [Womack] continues to make monthly payments to the [Inmate Financial Responsibility Program], that does not affect his original obligation to make full payment at the time restitution was imposed." United States v. Ervin, No. 00-cr-28, 2022 WL 123471, at *3 (N.D. Ind. Jan. 13, 2022). "Thus, the Government's use of the [Treasury Offset Program] to collect funds for [Womack's] restitution was proper regardless of his compliance with the [Inmate Financial Responsibility Program]." Id. at *2. Accordingly, Womack's motion with respect to the use of the Treasury Offset Program will be denied.

51. As to the alleged failure to send the notice required by the Treasury Offset Program itself, this would not be a violation of the restitution order. Womack has not cited authority that I would have jurisdiction to consider this alleged procedural violation, and I therefore conclude that jurisdiction is lacking.

WHEREFORE, it is hereby **ORDERED** that:

52. Womack's motion to vacate sentence (ECF No. 287) is **DENIED**. There is no basis to issue a certificate of appealability.

53. Womack's motions to amend and supplement his motion to vacate sentence (ECF Nos. 334, 335) are **GRANTED**, and the claims raised therein are **DENIED**. There is no basis to issue of certificate of appealability.

54. Womack's motions to expand the record and stay habeas proceedings (ECF Nos. 395 and 396) are **DENIED AS MOOT**.

55. Womack's motion to replace current counsel (ECF No. 337) is **DENIED**.

56. Womack's motion to remove Richard Fuschino as counsel (ECF No. 383) is **GRANTED**. To the extent Womack is requesting to continue the evidentiary hearing so that he may appear pro se, that request is **DENIED**.

57. Womack's motions for sanctions and related motions and petitions (ECF Nos. 358, 357, 381, 400) are **DENIED**.

58. Womack's petition for a writ of mandamus regarding his Covid-19 Economic Impact Payment is **DENIED**.

BY THE COURT:

/s/ Mitchell S. Goldberg
MITCHELL S. GOLDBERG, J.

A P P E N D I X (E)

CAAJK 540*23 * SENTENCE MONITORING * 04-15-2024
PAGE 001 * COMPUTATION DATA * 11:04:31
AS OF 04-15-2024

REGNO.: 69121-066 NAME: WOMACK, CHRISTIAN DIOR

FBI NO.: 376096MB1 DATE OF BIRTH: 07-13-1984 AGE: 39
ARS1.: CAA/A-DES
UNIT.: 1 GP
DETAINERS.: NO
QUARTERS.: A03-110L
NOTIFICATIONS: NO

FSA ELIGIBILITY STATUS IS: INELIGIBLE

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.

THE INMATE IS PROJECTED FOR RELEASE: LIFE

-----CURRENT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION.: PENNSYLVANIA, EASTERN DISTRICT
DOCKET NUMBER.: DPAE2:13CR000206-001
JUDGE.: GOLDBERG
DATE SENTENCED/PROBATION IMPOSED: 12-18-2014
DATE COMMITTED.: 03-13-2015
HOW COMMITTED.: US DISTRICT COURT COMMITMENT
PROBATION IMPOSED.: NO

FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED.: \$300.00	\$00.00	\$00.00	\$00.00

RESTITUTION...: PROPERTY: NO SERVICES: NO AMOUNT: \$35,700.00

-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE....: 753 SEX PROSTITUTION
OFF/CHG: 18:1591 SEX TRAFFICKING OF A MINOR BY FORCE (CT.1)
18:1591 SEX TRAFFICKING BY FORCE (CTS.2-3)

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE.: LIFE
DATE OF OFFENSE.....: 02-13-2013

G0002 MORE PAGES TO FOLLOW . . .

CAAJK 540*23 *
PAGE 002 OF 002 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 04-15-2024

* 04-15-2024
* 11:04:31

REGNO.: 69121-066 NAME: WOMACK, CHRISTIAN DIOR

-----CURRENT COMPUTATION NO: 010 -----

COMPUTATION 010 WAS LAST UPDATED ON 03-09-2021 AT DSC AUTOMATICALLY
COMPUTATION CERTIFIED ON 03-12-2015 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 12-18-2014
TOTAL TERM IN EFFECT.....: LIFE
TOTAL TERM IN EFFECT CONVERTED.: LIFE
EARLIEST DATE OF OFFENSE.....: 02-13-2013

JAIL CREDIT.....	FROM DATE	THRU DATE
	02-13-2013	02-13-2013
	04-26-2013	12-17-2014

TOTAL PRIOR CREDIT TIME.....: 602
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED.: 0
TOTAL GCT EARNED.....: 0
STATUTORY RELEASE DATE PROJECTED: N/A
ELDERLY OFFENDER TWO THIRDS DATE: N/A
EXPIRATION FULL TERM DATE.....: LIFE

PROJECTED SATISFACTION DATE.....: N/A
PROJECTED SATISFACTION METHOD...: LIFE

REMARKS.....: 3-9-21 RPC'D FOR GCT, LIFE SENTENCE E/TMO.
11-29-22 UPDTD CHARGES ON SOB E/TMO

S0055 NO PRIOR SENTENCE DATA EXISTS FOR THIS INMATE

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHRISTIAN DIOR WOMACK, : Civil No. 1:24-cv-00658

Petitioner,

v.

WARDEN FERNANDO GARZA,

Respondent.

Judge Jennifer P. Wilson

ORDER

Petitioner Christian Dior Womack, a federal inmate currently held at the United States Prison Canaan (“USP-Canaan”) in Waymart, Pennsylvania, filed an amended petition for writ of habeas corpus pursuant to 28 U.S. C. § 2241 challenging his conviction and sentence entered in the United States District Court for the Eastern District of Pennsylvania. (Doc. 7.) Also pending is Petitioner’s motion for stay pending resolution of an appeal in the underlying criminal case. (Doc. 8.) For the reasons set forth below, the petition will be dismissed for lack of jurisdiction.

BACKGROUND

Petitioner is currently serving a term of life imprisonment after pleading guilty to one count of sex trafficking of a minor by force and two counts of sex trafficking by force. *United States v. Womack*, No. 2:13-cr-00206-MSG, Doc. 171, (E.D. Pa. Dec. 18, 2014). Petitioner provides no procedural history in his petition,

nor does he allege that he filed a § 2255 petition in the sentencing court. (Doc. 7). A review of the docket in the underlying criminal matter reveals that direct appeals affirmed the conviction and sentence, and a § 2255 petition was denied following a hearing. *Womack*, No. 2:13-cr-00206-MSG, Doc. 401.

Petitioner filed a § 2241 habeas corpus petition in this court in April of 2024 naming the United States of America as the respondent. (Doc. 1.) Following the payment of the filing fee, the court screened the petition pursuant to Rule 4, and dismissed the petition for failing to name a proper respondent. (Doc. 6.) On May 17, 2024, the court received and docketed the instant amended petition. (Doc. 7.) The amended petition names Warden Fernando Gaza, Warden at USP-Canaan, as the appropriate respondent and seeks relief from the December 18, 2014 judgment, alleging that “it was issued under a sentence on offenses that Christian Womack was never found guilty of.” (Doc. 7, p. 2.) The court will screen the amended petition under Rule 4.

Petitioner also filed a motion to stay the proceedings pending the outcome of an appeal in the underlying criminal matter and a brief in support. (Docs. 8, 9.) Turning to the docket of the underlying criminal matter, it appears that the December 18, 2014 judgment was amended on April 17, 2024, because the court recognized that an incorrect statute number was included in the judgment and commitment. *Womack*, No. 2:13-cr-00206-MSG, Doc. 418. An appeal of this

order by Petitioner is pending before the Third Circuit Court of Appeals. *Id.*, Docs. 419, 420. Petitioner's motion is seeking a stay of this habeas matter pending the resolution of this appeal. (Docs. 8, 9.) Because the court finds that it lacks jurisdiction in this § 2241 petition, it will deny the pending motion to stay the proceedings.

DISCUSSION

This matter is before the court for screening pursuant to 28 U.S.C. § 2243. The § 2241 petition has been given preliminary consideration pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. § 2254 (applicable to § 2241 petitions under Rule 1(b)). Rule 4 may be applied at the discretion of the district court as it is the duty of the court to screen out frivolous applications and eliminate the burden that would be placed on the respondent by ordering an unnecessary answer. *Allen v. Perini*, 424 F.2d 134, 141 (6th Cir. 1970). Here, the court finds that it lacks jurisdiction and ordering an answer would be unnecessary. Therefore, the court will dismiss the petition.

A habeas petition brought pursuant to § 2241 is the proper vehicle for an inmate to challenge "the fact or length of confinement" or the "execution" of the confinement. *Preiser v. Rodriguez*, 411 U.S. 475, 494 (1973); *Woodall v. Fed. Bureau of Prisons*, 432 F.3d 235, 241-42 (3d Cir. 2005). In determining whether the court has jurisdiction over the claims in a § 2241 petition, the court must

consider whether granting the petition would “necessarily imply” a change to the fact, duration, or execution of the petitioner’s sentence. *Mabry v. Warden Allenwood FCI Low*, 747 F. App’x 918, 919 (3d Cir. 2019) (quoting *McGee v. Martinez*, 627 F.3d 933, 936 (3d Cir. 2010)). Here, Petitioner is challenging something other than the fact or length of his confinement. His petition amounts to a collateral attack on his judgment of conviction and sentence. (Doc. 7.) As such, this claim is not within the core or traditional scope of habeas corpus petitions pursuant to § 2241.

Federal prisoners seeking post-conviction relief from their judgment of conviction, or the sentence imposed, are generally required to bring such challenges by way of 28 U.S.C. § 2255. *See* 28 U.S.C. § 2255. The Third Circuit has stated that “[m]otions pursuant to 28 U.S.C. § 2255 are the presumptive means by which federal prisoners can challenge their convictions or sentences that are allegedly in violation of the Constitution.” *See Okereke v. United States*, 307 F.3d 117, 120 (3d Cir. 2002) (citing *Davis v. United States*, 417 U.S. 333, 343 (1974)).

Section 2255 provides, in relevant part, as follows:

(a) A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

(e) An application for a writ of habeas corpus on behalf of a prisoner who is authorized to apply for relief by motion pursuant to this section, shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced him, or that such court has denied relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention.

See 28 U.S.C. § 2255. Subsection (e) is commonly referred to as the “saving clause,” and has historically been viewed as a legal basis to file a § 2241 petition to collaterally attack a judgment following an unsuccessful § 2255 petition, as Petitioner is attempting to do here. However, the Supreme Court has recently held that the savings clause is reserved for exceedingly rare situations where it is “impossible or impracticable to seek relief in the sentencing court,” such as when the sentencing court dissolves or when the prisoner is unable to be present at a necessary hearing. *Jones v. Hendrix*, 599 U.S. 465, 478 (2023). Here, Petitioner is in the midst of seeking relief from the sentencing court as evidenced by his recent appeal.

Accordingly, pursuant to *Jones*, Petitioner cannot challenge his sentence by way of a § 2241 petition in this court. Accordingly, the court must dismiss the petition for lack of jurisdiction pursuant to § 2255(e). All pending motions will be denied as moot.

CONCLUSION

ACCORDINGLY, on this 4th day of June 2024, **IT IS HEREBY**

ORDERED THAT:

1. The amended petition, Doc. 7, is **DISMISSED** without prejudice to Petitioner's right to pursue appropriate relief in the sentencing court.
2. Petitioner's motion to stay the proceedings, Doc. 8, is **DENIED** as moot.
3. The Clerk of the Court is directed to **CLOSE** the case.

s/Jennifer P. Wilson
JENNIFER P. WILSON
United States District Judge
Middle District of Pennsylvania

A P P E N D I X (G)

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHRISTIAN DIOR WOMACK,

Defendant.

Criminal Action

No. 13-cr-206-1

ORDER

AND NOW, this 17th day of April, 2024, it is hereby **ORDERED** that Defendant Christian Dior Womack's "motion to correct clerical errors within criminal judgment" (ECF No. 417), to which no opposition was filed, is **GRANTED**. Pursuant to Federal Rule of Criminal Procedure 36, the December 18, 2024 judgment as to Christian Dior Womack (ECF No. 171) is amended on "Sheet 1" as follows: the "Title & Section" for Counts 2 and 3 is amended to read "18:1591 and 1594(a)."

BY THE COURT:

/s/ Mitchell S. Goldberg

MITCHELL S. GOLDBERG, J.

**Additional material
from this filing is
available in the
Clerk's Office.**