

A P P E N D I X

" A "

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-12912-A

JOSEPH WILLIAMS,

Petitioner - Appellant,

versus

WARDEN, FCC COLEMAN - USP I,

Respondent - Appellee.

Appeal from the United States District Court
for the Middle District of Florida

ENTRY OF DISMISSAL: Pursuant to the 11th Cir.R.42-1(b), this appeal is DISMISSED for want of prosecution because the appellant Joseph Williams has failed to pay the filing and docketing fees to the district court within the time fixed by the rules, effective December 07, 2017.

DAVID J. SMITH
Clerk of Court of the United States Court
of Appeals for the Eleventh Circuit

by: Denise E. O'Guin, A, Deputy Clerk

FOR THE COURT - BY DIRECTION

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OCT 26 2017

David J. Smith
Clerk

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JOSEPH WILLIAMS,

Petitioner-Appellant,

versus

FCC COLEMAN—USP I WARDEN,

Respondent-Appellee.

Appeal from the United States District Court
for the Middle District of Florida

ORDER:

Joseph Williams's motion for leave to proceed *in forma pauperis* is DENIED because he has presented no non-frivolous argument on appeal. *See* 28 U.S.C. § 1915(e)(2)(B); *Napier v. Preslicka*, 314 F.3d 528, 531 (11th Cir. 2002).

/s/ Gerald Bard Tjoflat
UNITED STATES CIRCUIT JUDGE

A P P E N D I X

" B "

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

JOSEPH WILLIAMS,

Petitioner,

v.

Case No: 5:15-cv-547-Oc-10PRL

WARDEN, FCC COLEMAN - USP I

Respondent.

ORDER DISMISSING CASE

Petitioner, *pro se*, is a federal inmate proceeding on a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. (Doc. 1). Respondent requests dismissal of the petition for lack of jurisdiction. (Doc. 6). Petitioner filed a Reply to the Response. (Doc. 9). Petitioner argues that his sentence is invalid because five of his six prior drug convictions were not "serious drug offenses," his carrying a concealed weapon is not a violent felony based on United States v. Archer, 531 F.3d 1347 (11th Cir. 2008), and battery on law enforcement is not a violent felony based on United States v. Williams, 609 F.3d 1168 (11th Cir. 2010); therefore he only had only two, not three predicate offenses under the Armed Career Criminal Act (ACCA). (Doc. 1).

Rule 12(h)(3) of the Federal Rules of Civil Procedure provides that "[i]f the court determines at any time that it lacks subject matter jurisdiction, the court must dismiss the action." See also Rule 12, Rules Governing Section 2255

proceedings. Recently, sitting en banc the Eleventh Circuit overruled prior precedent and held that 28 U.S.C. § 2241 is not available to challenge the validity of a sentence except on very narrow grounds not present in this case. McCarthan v. Director of Goodwill Industries-Suncoast, Inc., 851 F.3d 1076, 1079 (11th Cir. 2017) (en banc) (quoting 28 U.S.C. § 2255(e)); Bernard v. FCC Coleman Warden, No. 15-13344 (11th Cir. April 24, 2017) (citing McCarthan, 851 F.3d at 1092-93).

Thus, pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings for the United States District Courts (directing *sua sponte* dismissal if the petition and records show that the moving party is not entitled to relief), this case is **DISMISSED**. See also 28 U.S.C. § 2255(b). The **Clerk** is directed to enter judgment dismissing this case without prejudice, terminate any pending motions,¹ and close the file.

IT IS SO ORDERED.

DONE AND ORDERED at Ocala, Florida, this 31st day of May, 2017.



UNITED STATES DISTRICT JUDGE

Copies to: Joseph Williams, *pro se*

¹ In Petitioner's motion to supplement (Doc. 11) he seeks to supplement his petition with the Supreme Court's ruling in Mathis v. United States, 136 S. Ct. 2243 (2016). Based on this Order, the motion to supplement is moot.