

App. x. A

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

MARK WOODS,
Plaintiff,

v.

CRIMINAL ACTION NO. 15-CR-180-2
CIVIL ACTION NO. 16-CV-5766

SEAN MARLER, ET AL.,
Defendants.

FILED JAN - 9 2017

ORDER

AND NOW, on this *off* day of January, 2017, upon consideration of the *pro se* petition to dismiss the cause of action pursuant to 28 U.S.C. § 2241 (doc. no. 4),¹ for reasons stated on the record, Petitioner's habeas petition is DENIED. It is further ORDERED that a certificate of appealability shall not issue.

BY THE COURT:


MITCHELL S. GOLDBERG, J.

ENTERED

JAN 10 2017

CLERK OF COURT

¹ Petitioner filed his original petition in an improper format on October 27, 2016. I ordered him to file his petition on the proper form on November 29, 2016 (doc. no. 2), but still allowed him to argue his petition at a hearing held on December 28, 2016. I denied his petition at that hearing (doc. no. 3). Petitioner has now filed his petition on the proper form, and for the same reasons stated on the record at the December 28, 2016 hearing, this petition is denied.

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

UNITED STATES

v.

Mark Woods, pro se

: MOTION TO VACATE JUDGMENT OF
: CONVICTION AND TO DISMISS FOR
: WANT OF JURISDICTION AS THE
: TRIAL COURT WAS "AUTOMATIC
: DIVESTED" OF JURISDICTION
: UPON FILING OF NOTICE OF APPEAL
: No. 15-180-02

MOTION TO VACATE JUDGMENT OF CONVICTION AND TO DISMISS FOR
WANT OF JURISDICTION AS THE TRIAL COURT WAS " AUTOMATIC DIVESTED"
OF JURISDICTION UPON FILING OF NOTICE OF APPEAL

COMES NOW, the defendant, a/k/a Mark Woods pro se, in the above-entitled action, and moves this Court to vacate the defendant(s) convictions and to dismiss all charges for want of jurisdiction for all the reasons set forth below:

PROCEDURAL BACKGROUND

On April 28, 2015, a Federal Grand Jury returned a seventeen-count indictment charging the defendant, as well as fifteen others. The Grand Jury subsequently returned a thirty-count superseding indictment on May 26, 2016, adding four additional defendants.

On or about October 27-30, 2016, the defendant filed a Habeas Corpus petition under 28 U.S.C. § 2241.

On November 1, 2016, this Court granted defendant's request to proceed pro se, after denying his request for new counsel, with attorney, Mr. Brendan T. McGuigan, as standby counsel.

On December 29, 2016, a hearing was held by this Court (Judge Mitchell S. Goldberg) concerning the defendant's Habeas Corpus under 28 U.S.C. § 2241, which was summarily denied and an order was entered on that day.

On January 4, 2017, the defendant filed a notice of appeal to the Third Circuit Court of Appeals after being denied a Certificate of Appealability by this Court, which is not needed by a Federal prisoner for purposes of 28 U.S.C. § 2241. The next day the defendant filed the same petition in the District Court on the correct form for a Habeas Corpus petition.

On January 9, 2017, this Court denied that petition as well. (The pertinent documents are filed in No. 15-180-02 at DDE #605,606,618, and 619).

On January 12, 2017, The Third Circuit of Appeals Docketed his appeal. (Dkt. No. 2-16-cv-05766, Doc. No, 8)

In the mean time, the unlawful and unconstitutional trial of the defendant(s) proceeded on January 31, 2017.

LEGAL ARGUMENT

In Griggs v. Provident Consumer Discount Co., 459 U.S. 56,58, 74 L.ED 255 (1998), it was held:

" The filing of a notice of appeal is an event of jurisdictional significance in that it confers jurisdiction on the Court of Appeals and Divest the the District Court of its control over those aspects of the case involved in the appeal..." at 58

And in Venen v. Sweet, 758 F.2d 117 (3rd Cir. 1984), there it was

held that:

"As a general rule, the timely filing of a notice of appeal is an event of jurisdictional significance , immediately conferring jurisdiction on a Court of Appeals and Divesting a District Court of its control over those aspects of the case involved in the Appeal."

And " Divest" means what it says-the power to act, 'all' but a limited number of circumstances, has been taken away and placed elsewhere." Venen Id. See S.E.C. v. Investors Security Corp., 560 F.2d 561 (3rd Cir. 1977) (The " well settled doctrine in this Circuit that the 'Filing of a Notice of Appeal "immediately transfers jurisdiction of a case from the District Court to the Court of Appeals").

It is indisputable that Woods filed a 'timely notice of appeal" of the denial of his Habeas Corpus petition under 28 U.S.C. § 2241 in accordance to Federal Rules of Civil Procedure 4(a) and 28 U.S.C. § 2107. The Third Circuit Court of Appeals exercised immediate jurisdiction over the cause pursuant to 28 U.S.C. §§ 1291 and 2253. It is well known that the purpose of the judge made rule was to avoid the District Court and the Appeals Court from exercising "concurrent" jurisdiction. Griggs Id. See also Main Line Federal Saving & Loans Ass'n v. Tri-Kell, 721 F.2d 904, 906 (3rd Cir. 1983)

This court was clearly aware of Mr.Woods intentions to appeal the denial of his habeas Corpuse petition and in fact, the Court was specifically informed of the fact that an appeal had in fact been filed in the Third Circuit Court of Appeals and the Court responded:

~~"Mr. Woods, that's your right to appeal..." See (N.T. 2/3/17)~~

Despite the fact that the defendant, Woods, filed a "timely appeal" and the well-settled doctrine in this Circuit that such a timely notice of appeal "immediately transfers jurisdiction of a case from the District Court to the Court of Appeals...", Venen ID; The Court still compelled the defendant(s) to trial. The fact that filing of a notice of appeal foreclosed any right the Court "may" had to continue its jurisdiction over his criminal prosecution trial was of no moment to the trial Court (emphasis).

Certainly, it was an appealable matter as is evident by the fact that the Third Circuit Court of Appeals exercised "immediate jurisdiction" over his appeal from this Court's Order. This Court has conceded to this very fact in its Memorandum Opinion in the denial of Wood's Rule 34 Motion in which this Court stated: "The Third Circuit reviewed my denial of Wood's habeas petition de novo and affirmed my Order..." See District Court's Memorandum Opinion of denial of Wood's Rule 34 Motion to Arrest of Judgment at page 76.

And "where the practical effect of a judgment or order is final and only requires a ministerial act to act to implement it, such judgment or order is appealable under 28 U.S.C. § 1291". See Hattersley v. Bolt, 512 F.2d 209 (3rd Cir. 1974). See also Browder v. Director, Illinois Dept. of Corrections, 434 U.S. 257, 264, 54 L.Ed 2d 521, 98 S.Ct 556 (1978).

This Court was unquestionably "Divested of jurisdiction over the defendant(s) criminal prosecution immediately upon the timely filing of a notice of appeal to the Third Circuit Court of Appeals (emphasis), which is in direct contrast to this Court's claim that "[t]he District

Court's jurisdiction over the appellant's criminal prosecution is indisputable". See District Court's Memorandum of Opinion Id.

CONCLUSION

Mr. Woods was compelled to trial although this Court was immediately divested of jurisdiction over his criminal prosecution, which makes his entire trial/conviction null and void (emphasis). He respectfully "demands" that his unlawful and unconstitutional conviction be vacated and all charges dismissed in light of the above facts and the facts contained in his " Motion to Dismiss for Lack of legislative (territorial) jurisdiction, whaich was filed on November 21, 2018, but was not docketed until November 29, 2018 and was Docketed as a "Statement by Mark Woods."

All RIGHTS RESERVED

Respectfully Submitted

Date: December 5, 2018

By: 1s/ Mark Woods
Mark Woods, pro se

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ALD-114

February 1, 2018

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 17-1073

MARK WOODS, Appellant

VS.

WARDEN PHILADELPHIA FDC

(E.D. Pa. Civ. No. 2-16-cv-05766)

Present: MCKEE, VANASKIE and SCIRICA, Circuit Judges

Submitted are:

- (1) Appellee's motion to be excused from filing a brief and for summary affirmance;
- (2) Appellant's response to appellee's motion; and
- (3) Appellant's motion for summary reversal

in the above-captioned case.

Respectfully,

Clerk

ORDER

We exercise jurisdiction under 28 U.S.C. §§ 1291 and 2253, and review the District Court's denial of habeas corpus relief de novo. See Vega v. United States, 493 F.3d 310, 313–14 (3d Cir. 2007). Assuming arguendo that appellant properly invoked the District Court's jurisdiction to consider his pre-trial habeas petition filed pursuant to 28 U.S.C. § 2241, we summarily affirm the District Court's order entered on December 29, 2016, denying that petition because no substantial question is presented by this appeal. See Third Circuit LAR 27.4 and I.O.P. 10.6. The District Court's jurisdiction over appellant's criminal prosecution is indisputable. See U.S. Const. art. III, § 2; 18 U.S.C. § 3231. Additionally, the question of whether the robbery of a drug dealer falls under the Hobbs Act was resolved adversely to appellant by the Supreme Court in Taylor v. United States, 136 S. Ct. 2074, 2077–78 (2016). Appellee's motion to be excused from

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filings a brief and appellant's motion for summary reversal are thus denied as moot.

By the Court,

s/ Thomas I. Vanaskie
Circuit Judge

Dated: May 4, 2018

sb/cc: Mark Woods

Salvatore L. Astolfi, Esq.

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

MARK WOODS, :
Petitioner, :
: :
v. : : CIVIL ACTION NO. 24-CV-1833
: :
WARDEN USP CANAAN, :
Respondents. : :
:

ORDER

AND NOW this 15th day of July, 2024, given that Mark Woods has not complied with this Court's May 13, 2024 Order (ECF No. 4), requiring him to complete the Court's current standard form for filing a petition pursuant to 28 U.S.C. § 2255, and upon review of Woods's Motion for Reconsideration (ECF No. 6), it is **ORDERED** that:

1. The Motion is **DENIED**.¹
2. The Clerk of Court is **DIRECTED** to furnish Woods with a blank copy of this Court's current standard form for filing a petition pursuant to 28 U.S.C. § 2255, bearing the above-captioned civil action number.

¹ The Court's prior Order directed Woods to refile his *habeas* petition under 28 U.S.C. § 2255, rather than § 2241. Woods' Motion for Reconsideration of that Order (ECF No. 6) asserts that he can file his Petition under § 2241 because he is not challenging the validity of his sentence, but rather the execution of his sentence, and that § 2255 is "inadequate or ineffective" to test the lawfulness of his custody. (ECF No. 6 at 4-5). However, in his Petition, Woods asserts one claim: that this Court was divested of jurisdiction. (See Petition (ECF No. 1) at 3 ¶7). That claim is specifically contemplated by 28 U.S.C. § 2255, under which a petitioner may claim "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." 28 U.S.C. § 2255 (emphasis added). Plainly, as Section 2255 specifically contemplates, Woods's claim is a challenge to the validity, and not the execution, of his sentence. See e.g., Coady v. Vaughn, 251 F.3d 480, 485 (3d Cir. 2001) (federal prisoners may only challenge the validity of their sentences through Section 2255, not Section 2241; Section 2241 is limited to challenges to "some aspect of the execution of their sentence, such as denial of parole").

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

MARK WOODS, :
Petitioner, :
: :
v. : CIVIL ACTION NO. 24-CV-1833
: :
WARDEN USP CANAAN, :
Respondents. :
:

ORDER

AND NOW this 16th day of May, 2024, upon review of Mark Woods's Petition for *Writ of Habeas Corpus* (ECF No. 1), which exclusively presents claims that are of a type that may be brought through 28 U.S.C. § 2255(a),¹ recognizing the "well-established canon of statutory construction that when two statutes cover the same situation, the more specific statute takes precedence over the more general one," *Coady v. Vaughn*, 251 F.3d 480, 484 (3d Cir. 2001), it is

ORDERED that:

1. The Clerk of Court is **DIRECTED** to furnish Woods with blank copies of this Court's current standard form for filing a petition pursuant to 28 U.S.C. § 2255, bearing the above-captioned civil action number.
2. Woods should review the instructions included with the standard form for a petition pursuant to 28 U.S.C. § 2255. If Woods intends to pursue this matter pursuant to 28 U.S.C. § 2255, he shall complete this court's current standard form, sign the completed petition, and return it to the Clerk of Court within thirty (30) days of the date of this Order.
3. If Woods fails to comply with this Order his case may be dismissed without

¹ Pursuant to 28 U.S.C. § 2255, a petitioner may claim "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."

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further notice for failure to prosecute.

BY THE COURT:

/s/ Mitchell S. Goldberg

MITCHELL S. GOLDBERG, C.J.

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ALD-060

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 24-2262

MARK WOODS,
Appellant

v.

WARDEN USP CANAAN

(E.D. Pa. Civ. No. 2:24-cv-01833)

Present: BIBAS, PORTER, and MONTGOMERY-REEVES, Circuit Judges

Submitted are

- (1) By the Clerk for possible dismissal due to a jurisdictional defect;
- (2) By the Clerk for possible dismissal pursuant to 28 U.S.C. § 1915(e)(2) or summary action pursuant to Third Circuit L.A.R. 27.4 and Third Circuit I.O.P. 10.6; and
- (3) Appellant's argument in support of appeal,

in the above-captioned case.

Respectfully,

Clerk

ORDER

Appellant appeals the District Court's orders entered on May 13, 2024, and/or May 16, 2024, directing him to bring his habeas claim on the form for filing a motion pursuant to 28 U.S.C. § 2255. Although the District Court did not expressly dismiss Appellant's habeas petition pursuant to § 2241, it has effectively done so by precluding him from proceeding absent the filing of a § 2255 motion. Because Appellant has elected to stand on his § 2241 petition on appeal (and abandoned his right to further proceedings in the District Court), we have jurisdiction pursuant to 28 U.S.C. § 1291. *Cf. Batoff v. State Farm Ins. Co.*, 977 F.2d 848, 851 n.5 (3d Cir. 1992).

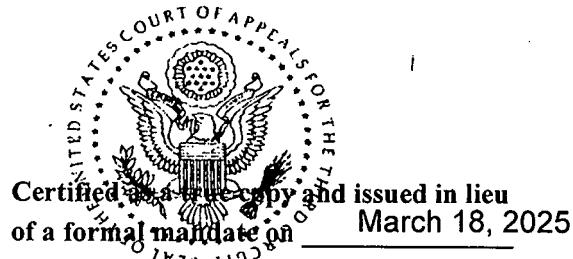
Appx. E

We summarily affirm the District Court's orders to the extent the Court held that Appellant may not pursue his habeas claim under § 2241. *See* 3d Cir. L.A.R. 27.4 and I.O.P. 10.6. Appellant's challenge to the District Court's jurisdiction over his criminal trial is a challenge to the validity of his conviction, not a challenge to the execution of his sentence that may be brought under § 2241. *See Jones v. Hendrix*, 599 U.S. 465, 478 (2023); *Cardona v. Bledsoe*, 681 F.3d 533, 536 (3d Cir. 2012); *Coady v. Vaughn*, 251 F.3d 480, 485 (3d Cir. 2001). Appellant may raise his claim in his pending direct appeal in which he has yet to file his brief or in a § 2255 motion at the appropriate time.

By the Court,

s/Stephanos Bibas
Circuit Judge

Dated: January 28, 2025
Tmm/cc: Mark Woods



Teste: *Patricia A. Diaz-Garcia*
Clerk, U.S. Court of Appeals for the Third Circuit

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-2262

MARK WOODS,
Appellant

v.

WARDEN USP CANAAN

(D.C. No. 2:24-cv-01833)

SUR PETITION FOR REHEARING

Present: CHAGARES, Chief Judge, and HARDIMAN, SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES, and CHUNG, Circuit Judges

The petition for rehearing filed by Appellant in the above-captioned case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc is **DENIED**.

By the Court,

s/Stephanos Bibas
Circuit Judge

Dated: March 10, 2025