

ALD-172

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1730

MARK WOODS,
Appellant

v.

WARDEN CANAAN USP

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 2:24-cv-01833)
District Judge: Honorable Mitchell S. Goldberg

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B) or
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6

June 26, 2025

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

JUDGMENT

This cause came to be considered on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted for possible dismissal pursuant to 28 U.S.C. § 1915(e)(2)(B) and for possible summary action pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6 on June 26, 2025.

APP. X A

ALD-172

NOT PRECEDENTIAL

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June 26, 2025

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

(Opinion filed: August 6, 2025)

OPINION*

PER CURIAM

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

Mark Woods appeals the District Court's order denying and dismissing his habeas petition filed pursuant to 28 U.S.C. § 2241 with prejudice. For the reasons that follow, we will summarily affirm the District Court's order.

In 2018, Woods, a federal prisoner, was sentenced to life plus 180 years in prison after being convicted of, inter alia, conspiracy to commit Hobbs Act robbery, kidnapping, carjacking, and firearm charges. His pro se direct appeal is pending. See C.A. No. 19-1002.

In April 2024, Woods filed a § 2241 habeas petition claiming that the District Court lacked jurisdiction to try him because, at the time of trial, he had a pending appeal of the denial of a pre-trial § 2241 petition. Woods sought release from prison. The District Court determined that Woods's claim should be brought in a motion filed pursuant to 28 U.S.C. § 2255. By orders entered May 13 and May 16, 2024, the Court directed its Clerk to send Woods the standard form for filing a § 2255 motion, directed Woods to complete the form within 30 days, and stated that if he failed to do so, his case may be dismissed. Woods did not file a § 2255 motion and instead filed a notice of appeal.

On appeal, we observed that, “[a]lthough 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.” We then summarily affirmed the District Court’s orders to the extent that it held that Woods could not pursue his claim in a § 2241 petition. See C.A. No. 24-2262. Citing our mandate, the District

~~Court thereafter formally denied and dismissed the § 2241 petition with prejudice by~~
order entered April 3, 2025. Woods filed another notice of appeal from that order.

Summary action is appropriate if there is no substantial question presented in the appeal. See 3d Cir. L.A.R. 27.4 (2011). As described above, we have already determined that Woods may not bring his claim in a § 2241 petition. The District Court did not err in following our mandate and denying and dismissing the § 2241 petition with prejudice.

For the above reasons, we will summarily affirm the District Court's order. See Third Circuit I.O.P. 10.6. Woods's "Motion for Summary Vacating" is denied.

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

MARK WOODS,
Petitioner,

v.

WARDEN USP CANAAN,
Respondents.

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CIVIL ACTION NO. 24-CV-1833
CRIMINAL ACTION NO. 15-CR-180-2

ORDER

AND NOW this 3rd day of April, 2025, upon review of the mandate and order of the United States Court of Appeals for the Third Circuit (ECF No. 10), it is **ORDERED** that:

1. The Petition is **DENIED** and **DISMISSED WITH PREJUDICE**.
2. There is no cause to issue a certificate of appealability.
3. The Clerk of Court is **DIRECTED** to close this matter.

BY THE COURT:

/s/ Mitchell S. Goldberg

MITCHELL S. GOLDBERG, J.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1730

MARK WOODS,
Appellant

v.

WARDEN CANAAN USP

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

SUR PETITION FOR REHEARING

Present: CHAGARES, Chief Judge; 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-entitled 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/ Tamika R. Montgomery-Reeves
Circuit Judge

Dated: September 9, 2025

Tmm/cc: Mark Woods

Robert A. Zauzmer, Esq.

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

MARK WOODS,
Petitioner,

v.

WARDEN USP CANAAN,
Respondents.

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CIVIL ACTION NO. 24-CV-1833

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").

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

UNITED STATES OF AMERICA

v.

MARK WOODS

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CRIMINAL ACTION

No. 15-cr-180-2

ORDER

AND NOW, this 17th day of June, 2025, upon consideration of Defendant Mark Woods’ *pro se* Motion to Vacate pursuant to 28 U.S.C. § 2255 (ECF No. 2060), the Government’s Response (ECF No. 2092), Defendant’s Reply (ECF No. 2099), Defendant’s Motion to Compel Notice of Removal (ECF No. 2075) and Defendant’s Motion to Compel Discovery in Relation to Former Detective Phillip Nordo (ECF No. 2076), I find as follows:

I. Factual and Procedural Background

1. On April 28, 2015, a federal grand jury returned a seventeen-count indictment charging Defendant and fifteen others of various offenses involving a conspiracy to commit robbery and other crimes. (ECF No. 1.)

2. Defendant filed a *pro se* petition to dismiss the cause of action pursuant to 28 U.S.C. § 2241(c)(3), which I dismissed on December 29, 2016. (ECF No. 606.) On January 9, 2017, I dismissed Defendant’s second *pro se* petition asserting the same claims. (ECF No. 619.) Defendant appealed and on May 4, 2018, the Third Circuit affirmed my denial of Defendant’s petition “because no substantial question is presented by this appeal.” United States v. Woods, No. 17-1073 (3d Cir. Jan. 12, 2017).

3. Following a jury trial in March and April of 2018, Defendant was found guilty of several offenses related to a conspiracy to commit robbery. (ECF No. 855.) On December 21, 2018, I sentenced Defendant to life imprisonment. (ECF No. 1634.)

4. On December 26, 2018, Defendant filed a “Motion for Reconsideration of Sentence due to Passage of Law/Bill S.756.” (ECF No. 1638.) I denied that motion on February 4, 2019. (ECF No. 1672.)

5. Defendant filed a direct appeal on January 7, 2019, and appealed my denial of his motion for reconsideration on August 14, 2023. See United States v. Woods, No. 19-1002 (3d Cir. Jan. 7, 2019); United States v. Woods, No. 23-2434 (3d Cir. Aug. 14, 2023). Both appeals remain pending in the Third Circuit Court of Appeals.

6. On April 22, 2024, Defendant filed the current *pro se* Motion to Vacate. (ECF No. 2060.) The Government opposes. (ECF No. 2092.)

II. Legal Standard

7. A prisoner in federal custody may file a motion in the trial court challenging the validity of his sentence under 28 U.S.C. § 2255. See Morelli v. United States, 285 F. Supp. 2d 454, 458 (D.N.J. 2003). Under this statutory framework, the court may “vacate, set aside or correct” a sentence that “(1) was imposed in violation of the Constitution or laws of the United States; (2) was imposed by a court lacking jurisdiction; (3) was in excess of the maximum authorized by law; or (4) is otherwise subject to collateral attack.” Morelli v. U.S., 285 F. Supp. 2d 454, 458 (D.N.J. 2003) (citing 28 U.S.C. § 2255). “A section 2255 petition is not a substitute for an appeal, nor may it be used to relitigate matters decided adversely on appeal.” Gov’t of V.I. v. Nicholas, 759 F.2d 1073, 1074-75 (3d Cir. 1985) (citation omitted).

8. The court accepts the truth of the defendant's allegations when reviewing a Section 2255 motion unless those allegations are "clearly frivolous based on the existing record." See United States v. Booth, 432 F.3d 542, 545 (3d Cir. 2005). A *pro se* prisoner's Section 2255 petition should be construed liberally. See Lewis v. Attorney General, 878 F.2d 714, 722 (3d Cir. 1989). A court is required to hold an evidentiary hearing when the motion "allege[s] any facts warranting § 2255 relief that are not clearly resolved by the record." See United States v. Tolliver, 800 F.3d 138, 141 (3d Cir. 2015) (quoting Booth, 432 F.3d at 546). Bald assertions and conclusory allegations do not provide sufficient grounds to require an evidentiary hearing. United States v. Donahue, 792 F. App'x 165, 168 (3d Cir. 2019).

9. Given that the record in this case clearly shows Defendant is not entitled to relief, there is no need for a hearing.

III. Discussion

10. Defendant argues that I lacked jurisdiction to conduct a jury trial and impose his sentence, because his appeal of my denial of his habeas petition was pending at that time. Because Defendant's direct appeal is still pending, I will deny his § 2255 motion.

11. Defendants who attempt to collaterally attack their conviction or sentence pursuant to § 2255 must do so within one year of the conviction becoming final. Kapral v. United States, 166 F.3d 565, 567 (3d Cir. 1999). A conviction becomes final under § 2255 when the time allowed for certiorari review by the Supreme Court has expired. Id. at 566-67. But "collateral attack is generally inappropriate if the possibility of further direct review remains open[.]" Id. at 570. In Kapral, the Third Circuit explained that "commencing a collateral attack while direct review is ongoing would be 'wasteful and pointless if the conviction is reversed by the Supreme Court.'" Id. at 572 (citation omitted); see also United States v. Ford, 215 F. App'x 167, 168 (3d Cir. 2007)

(explaining that adjudication of a § 2255 motion while the movant's direct appeal is pending is "disfavored as a matter of judicial economy").

12. Defendant has filed a § 2255 motion before the conclusion of direct review and provides no extraordinary circumstances for doing so.¹ Accordingly, I will deny Defendant's Motion as premature.

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

13. Defendant's Motion to Vacate under 28 U.S.C. § 2255 (ECF No. 2060) is **DENIED** without prejudice and may be reinstated, if necessary, after his conviction becomes final.

14. Defendant's Motions to Compel (ECF Nos. 2075, 2076) are **DENIED**.²

15. There is no basis for issuing a certificate of appealability.

BY THE COURT:

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

¹ See Rules Governing Section 2255 Proceedings, Advisory Committee Note to Rule 5 ("We are of the view that there is no jurisdictional bar to the District Court's entertaining a Section 2255 motion during the pendency of a direct appeal but that the orderly administration of criminal law precludes considering such a motion absent extraordinary circumstances.").

² Defendant makes no showing in his Motions to Compel that the requested material is relevant, and any production would be procedurally inappropriate in light of my denial of Defendant's § 2255 Motion.