

No. 26-3163

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Aug 4, 2026

KELLY L. STEPHENS, Clerk

In re: DARYL DANE DONOHUE,

Petitioner.

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ORDER

Before: SILER, STRANCH, and MATHIS, Circuit Judges.

Daryl Dane Donohue has filed a petition for a writ of error coram vobis as an original action in this court, requesting that we expunge his criminal convictions.

A jury convicted Donohue in 2016 of conspiracy to commit mail and wire fraud, along with substantive counts of mail, wire, and securities fraud. He was sentenced to 46 months of imprisonment, to be followed by three years of supervised release, and ordered to pay almost \$10 million in restitution. We affirmed his convictions, sentence, and order of restitution. *United States v. Donohue*, 726 F. App'x 333, 360–61 (6th Cir. 2018).

Donohue filed a 28 U.S.C. § 2255 motion to vacate his sentence, which the district court denied. This court denied a certificate of appealability. *See Donohue v. United States*, No. 18-4172 (6th Cir. Mar. 6, 2019) (order).

In 2021, Donohue moved in the district court for a writ of error coram nobis. The district court denied the motion after concluding that relief in coram nobis was not available because Donohue was still on supervised release and thus “in custody.” *United States v. Sandles*, 469 F.3d 508, 517 (6th Cir. 2006) (citation modified). We affirmed the district court’s decision. *United States v. Donohue*, Nos. 21-3415/3416, 2022 U.S. App. LEXIS 8727, at *7 (6th Cir. Mar. 31, 2022) (order).

In 2023, after he completed his term of supervised release, Donohue moved again in the district court for a writ of error coram nobis. The district court denied relief on the ground that the

issues in the motion had been raised or could have been raised in Donohue's direct appeal and § 2255 motion. Donohue did not appeal the district court's decision.

In 2024, Donohue filed a petition in this court that we construed as a petition for a writ of error coram nobis. *In re Donohue*, No. 24-3037, 2024 U.S. App. LEXIS 3502, at *1 (6th Cir. Feb. 14, 2024) (order). We dismissed the petition for lack of jurisdiction after concluding that, although we "may review a district court's denial of coram nobis relief pursuant to our appellate jurisdiction, we do not have original jurisdiction to entertain [a] petition for a writ of error coram nobis." *Id.* at *3 (alteration in original) (quoting *In re Thompson*, 449 F. App'x 110, 111 (3d Cir. 2011) (per curiam)). Donohue then filed his "petition for writ of coram vobis" in this court.

Generally, a writ of coram vobis has the same contours as a writ of coram nobis, *see Rawlins v. Kansas*, 714 F.3d 1189, 1194 (10th Cir. 2013); *United States v. Sawyer*, 239 F.3d 31, 37 n.4 (1st Cir. 2001), and may provide a means "to collaterally attack a criminal conviction for a person . . . who is no longer 'in custody' and therefore cannot seek habeas relief under 28 U.S.C. § 2255 or § 2241," *United States v. Castano*, 906 F.3d 458, 462 (6th Cir. 2018) (alteration in original) (quoting *Chaidez v. United States*, 568 U.S. 342, 345 n.1 (2013)). Even assuming we can consider Donohue's petition, however, coram vobis is an extraordinary remedy that is "limited to 'extreme cases' in which there were 'fundamental flaws in the proceedings.'" *Id.* (quoting *United States v. Denedo*, 556 U.S. 904, 916 (2009)). Among other requirements, a petitioner must show "good reasons for not seeking to correct the error earlier," *United States v. Singh*, 95 F.4th 1028, 1032 (6th Cir. 2024), and a petitioner generally cannot raise claims that could have been raised on direct appeal, *see Castano*, 906 F.3d at 464.

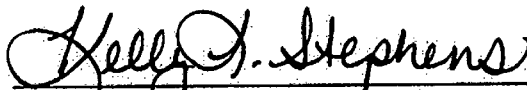
Here, virtually all the claims of error in Donohue's petition reiterate arguments he raised on direct appeal or in his § 2255 motion. Specifically, he repeats arguments he advanced on direct appeal that (1) the jury's verdicts were not supported by sufficient evidence and he is actually innocent, and (2) the district court committed errors in ordering restitution. *See Donohue*, 726 F. App'x at 352-53, 355-58. He also repeats an argument from his § 2255 motion that his counsel was ineffective for declining to move for a severance before he went to trial. Donohue cannot

obtain relief on these claims in coram vobis because he could—and did—raise them on direct appeal or in his § 2255 motion, and he makes no attempt to argue that his present claims are distinct from arguments he previously raised that were rejected.

The only new claim Donohue raises is that the admission at his trial of a co-defendant's prior conviction violated his constitutional rights under *Bruton v. United States*, 391 U.S. 123 (1968). Among other deficiencies, however, Donohue does not address why he did not raise the claim earlier or explain how he could have brought the claim in a successive § 2255 motion. See *United States v. Esobue*, 357 F.3d 532, 535 (5th Cir. 2004) (concluding that if a petitioner previously filed a § 2255 motion, an assertion that the petitioner's claims "would have been unable to satisfy the stringent standards for filing a successive § 2255 motion while [the petitioner] was in custody" does not provide a good reason for failing to raise the claims earlier); 28 U.S.C. § 2255(h). As a result, Donohue does not assert any claims that could "merit the extraordinary remedy of *coram nobis*" or coram vobis. *Castano*, 906 F.3d at 464.

Accordingly, the petition for a writ of error coram vobis is **DENIED**.

ENTERED BY ORDER OF THE COURT


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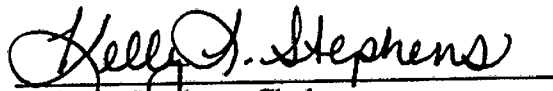
JUDGMENT

On Petition for a Writ of Coram Vobis
United States District Court for the Northern District of Ohio at Cleveland.

THIS MATTER was heard on the record and the pleadings without oral argument. In accordance with the order entered on this date and incorporated herein,

IT IS HEREBY ORDERED that the petition is DENIED, and that this matter is DISMISSED.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens, Clerk