

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MARCUS RUSSELL,

Petitioner,

v.

UNITED STATES,

Respondent.

PRISONER HABEAS CORPUS

28 U.S.C. §2241

CRIMINAL ACTION FILE NO.

1:16-CR-427-AT-JKL-15

FINAL REPORT AND RECOMMENDATION

Petitioner Marcus Russell, incarcerated at the Schuylkill Federal Correctional Institution in Minersville, Pennsylvania, has submitted a handwritten document that he styles as a motion to vacate judgment under 28 U.S.C. §2241 and that the Clerk has docketed in his closed criminal proceedings. (Doc. 1881). Therein, Petitioner attempts to challenge his 2018 conviction and sentence in this Court. (*Id.*). Petitioner previously submitted an identical document that the Clerk docketed as a habeas petition under §2241 in a separate case. *See Russell v. United States*, Civil Action No. 1:25-CV-1763-AT.

On April 8, 2025, I entered a report and recommendation (“R&R”) in that case, which recommended dismissing the petition for lack of jurisdiction. *Id.* at

Doc. 2. Specifically, I found that Petitioner could not challenge his convictions under §2241 since he did not demonstrate that the remedy under 28 U.S.C. §2255 is inadequate or ineffective to test the legality of his detention pursuant to §2255(e).¹ *Id.* I also declined to construe the §2241 petition as a §2255 motion because any such motion would likely be untimely, his plea agreement contained a collateral waiver, and his guilty plea waived his challenge to probable cause for his arrest. *Id.* at 6, n.3. Based on all of those reasons, I recommended dismissal of the petition for lack of jurisdiction. *Id.* at 7. And importantly, the service order filed contemporaneously with the R&R notified Petitioner that he may file objections to the R&R within fourteen days of service thereof, which Petitioner has not done. Although the identical §2241 petition has now been filed in Petitioner's criminal proceedings, the reasoning and conclusion remain the same.

IT IS RECOMMENDED that the instant §2241 petition [Doc. 1881] be **DISMISSED** for lack of jurisdiction.

¹ This section is known as the "savings clause."

The Clerk of Court is **DIRECTED** to terminate referral of this action to the undersigned Magistrate Judge.

IT IS SO RECOMMENDED this 17th day of April, 2025.



JOHN K. LARKINS III
UNITED STATES MAGISTRATE JUDGE