

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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DARRELL IVAN BOLDEN,

Petitioner,

v.

STEPHEN R. HOBART,

Respondent.  
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ORDER

05-C-198-C

This is an action in which petitioner, an inmate at the Federal Correctional Institution in Oxford, Wisconsin, asks this court to decide whether his conviction and sentence are illegal. Unfortunately, although petitioner has paid the \$5 filing fee for habeas corpus actions, his case must be dismissed for lack of jurisdiction.

Petitioner is serving a sentence imposed by the District Court for the Southern District of Illinois. Because he is attacking that sentence in his petition, the only avenue available to him is a petition filed pursuant to 28 U.S.C. § 2255 in the court that sentenced him. Waletzki v. Keohane, 13 F.3d 1079, 1080 (7th Cir. 1994) (“prisoner who challenges his federal conviction or sentence cannot use [§ 2241] at all but instead must proceed under 28 U.S.C. § 2255.”). Petitioner indicates in his petition that when he filed a § 2255 petition

in the federal district court in Illinois, it was denied as time-barred under the Antiterrorism and Effective Death Penalty Act. Petitioner's delay in filing his petition does not mean that § 2255 is not an adequate or effective means of testing the legality of his decision, In re Davenport, 147 F.3d 605, 609 (7th Cir. 1998) or that he can bring a habeas proceeding in this court. He had one opportunity to obtain collateral relief that he failed to utilize. Congress has provided no others.

ORDER

IT IS ORDERED that Darrell Ivan Bolden's petition for relief from his sentence is DISMISSED for lack of jurisdiction.

Entered this 11th day of April, 2005.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge