IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

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WILLIAM D. ECHOLS,

                      Petitioner,

        v.

RICHARD L. STIFF,

                    Respondent.

ORDER

02-C-0072-C

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This is a petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2241. Petitioner William D. Echols is an inmate at the Federal Correctional Institution in Oxford, Wisconsin, serving a sentence imposed by the District Court for the District of Minnesota on August 27, 1997. Petitioner contends that he is in custody in violation of the laws and Constitution of the United States. Although petitioner has paid the $5.00 filing fee, his petition will be dismissed for lack of jurisdiction.

Petitioner presents his claims in a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 but has given no reason why his claims should not be construed as a motion brought under 28 U.S.C. § 2255. It is not simply a matter of preference: § 2255 is the avenue available to him for attacking the conviction underlying his federal sentence. See

1

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.").

Because petitioner is challenging the validity of a conviction giving rise to his sentence, his claims must be presented in a § 2255 motion directed to the court that imposed his sentence. There is a narrow safety valve that permits federal sentences to be attacked collaterally under § 2241 when a motion under § 2255 is "inadequate or ineffective to test the legality of his detention." See In re Davenport, 147 F.3d 605, 608 (7th Cir. 1998). However, petitioner submits nothing in his petition or supporting papers suggesting that his challenge fits within the exception.

ORDER

IT IS ORDERED that William D. Echols' petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2241 is DISMISSED for lack of jurisdiction.

Entered this 28th day of March, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge

2