

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

NORMAN P. KOSTER,

Petitioner,

v.

R. L. STIFF,

Respondent.

ORDER

03-C-0072-C

This is a petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2241. Petitioner Norman P. Koster is a prisoner at the Federal Prison Camp in Oxford, Wisconsin, serving a sentence imposed by the District Court for the Northern District of Illinois. He 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.

Although petitioner has presented his claims in a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, he is challenging the legality of his custody on the ground that he had the ineffective assistance of counsel at his criminal trial. A motion under 28 U.S.C. § 2255 is the only avenue available to petitioner for attacking his federal conviction

and sentence. See 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’s sentencing court has exclusive jurisdiction to entertain petitioner’s § 2255 motion.

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. He cannot proceed under § 2241 in this court simply because he did not prevail on the § 2255 motion he filed in the court that imposed his sentence. See id. at 609-10. The fact that his motion failed does not mean that the motion was not an adequate or effective means of testing the legality of his detention.

ORDER

IT IS ORDERED that Norman P. Koster’s petition for a writ of habeas corpus

brought pursuant to 28 U.S.C. § 2241 is DISMISSED for lack of jurisdiction.

Entered this 17th day of February, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge