

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

DARRELL IVAN BOLDEN,

Petitioner,

v.

STEPHEN R. HOBART,

Respondent.

ORDER

05-C-285-C

This is an action in which petitioner, an inmate at the Federal Correctional Institution in Oxford, Wisconsin, asks this court to decide whether he received ineffective assistance of counsel when his lawyer failed to challenge the legality of the length of petitioner's sentence. Unfortunately, although petitioner has paid the \$5 filing fee for habeas corpus actions, his case must be dismissed for lack of jurisdiction.

As I told petitioner in another habeas corpus action he filed in this court, Bolden v. Hobart, 05-C-198-C, because he is serving a sentence imposed by the District Court for the Southern District of Illinois, the only avenue available to him to challenge his sentence is a petition filed pursuant to 28 U.S.C. § 2255 in that court. 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.”). Although petitioner asserts that “a sec. 2255 motion would not be the proper petition to argue” his claim that his lawyer was ineffective by failing to obtain a shorter sentence for him, he does not point to any law to support this position and I am aware of none. Indeed, the law is to the contrary. He must proceed under § 2255 in the court that sentenced him. This court is without jurisdiction to consider his claim.

ORDER

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

Entered this 17th day of May, 2005.

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