

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

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BOBBY MARVIN COLLINS,

Petitioner,

v.

WARDEN CAROL HOLINKA,

Respondent.  
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ORDER

07-cv-130-bbc

This case was remanded by the Court of Appeals for the Seventh Circuit to allow petitioner Bobby Marvin Collins the opportunity to show that he is entitled to a writ of habeas corpus under 28 U.S.C. § 2241. Petitioner is a federal prisoner challenging the validity of his conviction, which is usually addressed by filing a motion under 28 U.S.C. § 2255. The only exception exists when the prisoner can show that a motion under § 2255 is “inadequate or ineffective to test the legality of his detention.” In re Davenport, 147 F.3d 605, 608 (7th Cir. 1998). The court of appeals has explained that “§ 2255 is ‘inadequate or ineffective’ only when a structural problem in § 2255 forecloses even one round of effective collateral review – and then only when . . . the claim being foreclosed is one of actual innocence.” Taylor v. Gilkey, 314 F.3d 832, 835 (7th Cir. 2002).

I originally gave petitioner until April 28 to make the necessary showing, but I extended the deadline to May 5 when petitioner asked for more time. Petitioner still has not filed a response addressing the question whether he is entitled to relief under § 2241. Instead, he filed another request for extension of time, 11 days after his response was due. Nothing in his filing suggests that giving him more time would make any difference. Although he filed this petition more than one year ago, he still provides no basis for a belief that he did not have an adequate and effective remedy under § 2255. Accordingly, IT IS ORDERED that the petition for a writ of habeas corpus filed by petitioner Bobby Marvin Collins under 28 U.S.C. § 2241 is DENIED for petitioner's failure to show that he is in custody in violation of the Constitution or other federal law.

Entered this 22<sup>nd</sup> day of May, 2008.

BY THE COURT:

/s/

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BARBARA B. CRABB  
District Judge