

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

JOSEPH A. BROWN,

Petitioner,

v.

Case No: 5:19-cv-209-Oc-02PRL

WARDEN, FCC COLEMAN USP-I,

Respondent.

ORDER DISMISSING CASE

Petitioner, proceeding *pro se*, initiated this case by filing a Petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. (Doc. 1). Petitioner challenges his “unlawful and illegal custody” because the District of Columbia “deliberately failed to order” a mental health evaluation on Petitioner before he was sentenced. See Doc. 1 at 6-7. Petitioner further claims that the D.C. Superior Court abused its discretion by denying him an evidentiary hearing and counsel for a § 23-110 proceeding. Id. at 8.

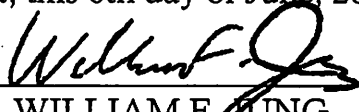
Rule 12(h)(3) of the Federal Rules of Civil Procedure provides that “[i]f the court determines at any time that it lacks subject matter jurisdiction, the court must dismiss the action.” See also Rule 12, Rules Governing Section 2255 proceedings. Recently, sitting en banc the Eleventh Circuit overruled prior precedent and held that 28 U.S.C. § 2241 is not available to challenge the validity of a sentence except on very narrow grounds not present in this case. McCarthan v. Director of Goodwill Industries-Suncoast, Inc., 851 F.3d 1076, 1079 (11th Cir. 2017) (en banc) (quoting 28

U.S.C. § 2255(e)); Bernard v. FCC Coleman Warden, 686 F. App'x 730 (11th Cir. 2017) (citing McCarthan, 851 F.3d at 1092-93).

Thus, pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings for the United States District Courts (directing *sua sponte* dismissal if the petition and records show that the moving party is not entitled to relief), this case is **DISMISSED**. See also 28 U.S.C. § 2255(b). The **Clerk** is directed to enter judgment dismissing this case without prejudice, terminate any pending motions, and close the file.

IT IS SO ORDERED.

DONE AND ORDERED at Tampa, Florida, this 6th day of June, 2019.



WILLIAM F JUNG
UNITED STATES DISTRICT JUDGE

Copies to: Pro Se Petitioner