

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

PHILIP ANDRA GRIGSBY,
Petitioner,

vs.

Case No. 18-3138-JTM
Crim. Case No. 12-10174-JTM

WARDEN BALTAZAR,
Respondent.

MEMORANDUM AND ORDER

On July 27, 2018, the court denied Petitioner Philip Grigsby's request to vacate his sentence. (Dkt. 3). Grigsby filed a timely Notice of Appeal (Dkt. 6), and also filed a Motion to Strike (Dkt. 5), arguing that his petition for relief under 28 U.S.C. § 2241 was a matter which should have been resolved by the United States District Court for the District of Arizona, where he is currently incarcerated. The Tenth Circuit has abated the appeal while this court resolves the Motion to Strike.

After Grigsby's Petition was delivered to the Clerk of the Court, it was entered as a separate action. The judge who initially reviewed the action, recognizing that the substance of the case was inextricably intertwined with the Grigsby's long history of postconviction attacks on the judgment in his criminal case, authorized its assignment to the undersigned. As the court discussed in its Memorandum and Order (Dkt. 3), the Petition, while in the form of a § 2241 collateral attack on his incarceration, is actually a disguised § 2255 attack, which is properly denied.

IT IS ACCORDINGLY ORDERED this day of August, 2018, that the Petitioner's Motion to Strike (Dkt. 5) is denied.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE