

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 20-14736  
Non-Argument Calendar

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D.C. Docket No. 5:19-cv-00330-MSS-PRL

MARSHALL DEWAYNE WILLIAMS,

Petitioner-Appellant,

versus

WARDEN, FCC COLEMAN,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Middle District of Florida

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(May 26, 2021)

Before MARTIN, JILL PRYOR, and LUCK, Circuit Judges.

PER CURIAM:

Marshall Dewayne Williams, a federal prisoner proceeding pro se, appeals the denial of his motion to reopen his 28 U.S.C. § 2241 habeas corpus proceedings. He argues that the district court abused its discretion in concluding that it lacked jurisdiction and that the court applied the incorrect law in denying his motion. After careful consideration, we affirm.

## I

Williams is serving a 99-year term of imprisonment. In July 2019, he filed the present petition for a writ of habeas corpus under 28 U.S.C. § 2241. His petition argued that his 99-year sentence exceeded the statutory maximum and violated his right to due process. The district court dismissed Williams's petition without prejudice for lack of jurisdiction, holding that Williams's claims were improperly brought under § 2241. The district court concluded that, under McCarthan v. Director of Goodwill Industries-Suncoast, Inc., 851 F.3d 1076 (11th Cir. 2017) (en banc), § 2241 is not available to challenge the validity of a sentence “except on very narrow grounds not present in this case.”

Williams appealed the dismissal, and our court affirmed. Williams v. Warden, FCC Coleman, 803 F. App'x 324, 327 (11th Cir. 2020) (per curiam) (unpublished). This Court concluded that Williams's petition was clearly challenging the validity, rather than the execution, of his sentence and that

McCarthan prohibited him from bringing this type of claim under § 2241. Id. at 326–27.

On July 7, 2020, after this Court affirmed the dismissal of Williams’s § 2241 petition but before the mandate had issued, Williams filed a motion to reinstate his § 2241 proceedings.<sup>1</sup> He argued that the district court erroneously dismissed his habeas petition for lack of jurisdiction when it applied McCarthan, rather than Bryant v. Warden, FCC Coleman-Medium, 738 F.3d 1253 (11th Cir. 2013), overruled by McCarthan, 851 F.3d 1076. He said that, under Bryant, he could challenge the validity of his sentence under § 2241. But in any event, he also stated that he was attacking the “execution” of his sentence.

On July 20, 2020, Williams filed a “Memorandum of Law in Support of Issuing the Writ of Habeas Corpus,” in which he reasserted arguments from his motion to reinstate and argued that the district court had jurisdiction. This Court issued the mandate in Williams’s appeal of the dismissal of his § 2241 petition on July 23, 2020.

Three months after the issuance of the mandate, a magistrate judge denied Williams’s motion to reopen his § 2241 proceedings. The magistrate judge held

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<sup>1</sup> Because there is no rule or statute providing for a motion to reopen in the context of habeas corpus proceedings, we construe Williams’s motion as arising under Federal Rule of Civil Procedure 60(b). See Howell v. Sec’y, Fla. Dep’t of Corr., 730 F.3d 1257, 1260 (11th Cir. 2013) (stating that a Rule 60(b) motion can be used to challenge a defect in the integrity of a federal habeas proceeding).

that it was divested of jurisdiction to entertain the motion because Williams had filed it before this Court issued its mandate in Williams's appeal. Williams filed an appeal to the district court, which the district court construed as objections to the magistrate judge's order. The district court then overruled Williams's objections and denied his request to reopen his § 2241 proceedings. The court agreed with the magistrate judge that Williams's appeal divested the district court of jurisdiction to review his motion to reopen. The court also concluded that, even if it had jurisdiction, Williams failed to provide a basis for reconsideration because his arguments were not based on a change in the law, new evidence, or the need to correct clear error or manifest injustice.

This is Williams's appeal.

## II

We first address the district court's ruling that it lacked jurisdiction to review Williams's motion to reopen. We review de novo whether a district court had jurisdiction. United States v. Stossel, 348 F.3d 1320, 1321 (11th Cir. 2003) (per curiam).

Here, the district court held that Williams's appeal divested it of jurisdiction. This is not quite right. It is certainly true that, when an appeal is filed, the district court is divested of jurisdiction to take any action regarding the matter except in aid of the appeal. United States v. Diveroli, 729 F.3d 1339, 1341 (11th Cir. 2013).

However, “district courts retain jurisdiction after the filing of a notice of appeal to entertain and deny a Rule 60(b) motion.” Mahone v. Ray, 326 F.3d 1176, 1180 (11th Cir. 2003). Thus the district court had jurisdiction to deny Williams’s motion, which is what the court’s alternative ruling (in which it said Williams had “failed to provide a basis” to reopen his § 2241 proceedings) shows it would have done.

We now turn to that alternative ruling. We review a district court’s denial of a Federal Rule of Civil Procedure 60(b) motion for abuse of discretion. Lugo v. Sec’y, Fla. Dep’t of Corr., 750 F.3d 1198, 1207 (11th Cir. 2014). Rule 60(b) provides for relief from, among other things, a judgment that is void or for any other reason justifying relief. Fed. R. Civ. P. 60(b). A prisoner may challenge a defect in the integrity of the federal habeas proceedings in a Rule 60(b) motion but may not add a new ground for relief. Howell v. Sec’y, Fla. Dep’t of Corr., 730 F.3d 1257, 1260 (11th Cir. 2013). Movants for reconsideration must show extraordinary circumstances justifying the reopening of a final judgment, and we have noted that “extraordinary circumstances that warrant the reopening of a judgment will rarely occur in the habeas context.” Id. (quotation marks omitted).

Here, the district court did not abuse its discretion when it alternatively denied Williams’s motion on the merits. In his motion to reopen together with his objections to the magistrate judge’s order, Williams reargued only that his 99-year

sentence is illegal and that the district court erred by applying the standard for when a petitioner may seek relief under § 2241 established by this Court en banc in McCarthan rather than the standard in Bryant that was overruled. These are the same arguments the district court previously rejected and that this Court rejected in Williams's direct appeal. See Williams, 803 F. App'x at 326–27. And to the extent Williams raised a new argument challenging the execution, rather than the validity, of his sentence, new arguments cannot be raised in the Rule 60(b) context. Howell, 730 F.3d at 1260. Williams therefore did not provide any “extraordinary” reason for the court to reconsider its order. See id. The district court thus did not abuse its discretion.

**AFFIRMED.**