

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Abramian v. United States

Abramian · No. 1:25-cv-00320-SKO (HC) · Decided March 20, 2025

SUMMARY

A magistrate judge recommends dismissal of Arno Abramian’s 28 U.S.C. § 2241 habeas petition for lack of jurisdiction. The court concludes that Abramian’s challenges to his federal sentence must be brought under 28 U.S.C. § 2255 in the sentencing court and do not qualify for the savings clause. The court also directs the clerk to assign a district judge and provides a twenty-one-day objection deadline.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                                                                                                                                                                                                                            |
| WRITING FOR THE COURT | Sheila K. Oberto                                                                                                                                                                                                                                                                                                                                                               |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                                                                                                                                                                                                                                                            |
| DECIDED               | March 20, 2025                                                                                                                                                                                                                                                                                                                                                                 |
| DOCKET                | 1:25-cv-00320-SKO (HC)                                                                                                                                                                                                                                                                                                                                                         |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | Federal prisoner proceeding pro se filed a 28 U.S.C. § 2241 petition challenging his federal sentence. A magistrate judge issued findings and recommendation that the petition be dismissed for lack of jurisdiction and ordered assignment of a district judge.                                                                                                               |
| STANDARD OF REVIEW    | A habeas petition may be summarily dismissed under Rule 4 when it plainly appears from the petition and attached exhibits that the petitioner is not entitled to relief. The court also applied the jurisdictional distinction between § 2241 challenges to the execution of a sentence and § 2255 challenges to the validity or legality of a federal conviction or sentence. |
| PRECEDENTIAL VALUE    | nonprecedential                                                                                                                                                                                                                                                                                                                                                                |

TOPICS

- federal habeas corpus
- successive petitions
- actual innocence
- post-conviction relief
- pleadings

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether a federal prisoner may use 28 U.S.C. § 2241 to challenge the validity of his federal sentence.
2. Whether petitioner satisfied the § 2255(e) savings-clause requirements by showing actual innocence and the absence of an unobstructed procedural opportunity to present his claims.
3. Whether the petition should be transferred to the Central District of California rather than dismissed.

## HOLDINGS

1. A federal prisoner must ordinarily challenge the validity or constitutionality of a federal conviction or sentence through a motion under 28 U.S.C. § 2255 in the sentencing court, rather than through a § 2241 petition in the district of confinement.
2. Petitioner could not proceed under § 2241 through the § 2255 savings clause because he neither claimed actual innocence nor showed that he lacked an unobstructed procedural opportunity to present his sentencing claims.
3. Transfer to the Central District of California was not in the interest of justice because the petition constituted a second or successive § 2255 motion requiring prior certification by the court of appeals.

## KEY QUOTATIONS

*“The general rule is that a motion under 28 U.S.C. § 2255 is the exclusive means by which a federal prisoner may test the legality of his detention, and that restrictions on the availability of a § 2255 motion cannot be avoided through a petition under 28 U.S.C. § 2241.”* (at 6-8)

*“if - and only if – § 2255’s remedy by motion is ‘inadequate or ineffective to test the legality of his detention’”* (at 14-16)

## FACTUAL BACKGROUND

Petitioner pleaded guilty to bank fraud and aggravated identity theft in the Central District of California and was sentenced to 81 months in prison followed by three years of supervised release. His § 2255 motion was denied, and the Ninth Circuit affirmed. While incarcerated in California, he filed a § 2241 petition challenging his sentence, seeking a downward departure under the asserted “Smith variance” and elimination of supervised release.

## PROCEDURAL HISTORY

Petitioner pleaded guilty in the Central District of California and received an 81-month sentence followed by three years of supervised release. He later filed a motion under 28 U.S.C. § 2255, which was denied; the Ninth Circuit affirmed. He then filed this § 2241 petition in the Eastern District of California, seeking resentencing and elimination of supervised release. The magistrate judge recommended dismissal for lack of jurisdiction and declined to recommend transfer because the petition would constitute a second or successive § 2255 motion.

## DISPOSITION

dismissed

#### CASES CITED

- United States v. Abramian, No. 2:20-cr-00227-PA (C.D. Cal. 2023)
- United States v. Wilson, 631 F.2d 118, 119 (5th Cir. 1980)
- Jones v. Hendrix, 599 U.S. 465, 469, 471, 474, 477-78 (2023)
- Tripati v. Henman, 843 F.2d 1160, 1162-63 (9th Cir. 1988)
- Stephens v. Herrera, 464 F.3d 895, 897-98 (9th Cir. 2006)
- Hernandez v. Campbell, 204 F.3d 861, 864-65 (9th Cir. 2000)
- Grady v. United States, 929 F.2d 468, 470 (9th Cir. 1991)
- United States v. Flores, 616 F.2d 840, 842 (5th Cir. 1980)
- Harrison v. Ollison, 519 F.3d 952, 956, 959-60 (9th Cir. 2008)
- Marrero v. Ives, 682 F.3d 1190, 1192 (9th Cir. 2012)
- Shephard v. Unknown Party, Warden, FCI Tucson, 5 F.4th 1075, 1076 (9th Cir. 2021)
- Ivy v. Pontesso, 328 F.3d 1057, 1059-60 (9th Cir. 2003)
- Muth v. Fondren, 676 F.3d 815, 819 (9th Cir. 2012)
- Cruz-Aguilera v. INS, 245 F.3d 1070, 1074 (9th Cir. 2001)
- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)