

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

UNITED STATES OF AMERICA

v.

GLADYS HARUN

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CR 323-003

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

JUL 12 2024

O R D E R

FILED

Presently before the Court is Defendant Gladys Harun's motion for the appointment of counsel to assist her in filing "post-convictions motions including a 2255." (Doc. No. 45, at 1.) Defendant seems most concerned with the Bureau of Prisons' alleged refusal to calculate her release date with any appropriate credits.

At the outset, the Court reminds Defendant that she waived her right to collaterally attack her conviction and sentence on any ground and by any method, including but not limited to a 28 U.S.C. § 2255 motion, in her plea agreement. (Doc. No. 8.) Aside from a collateral attack, the only statute that grants a sentencing court the authority to modify an imposed sentence is 18 U.S.C. § 3582(c). A prisoner does not have a constitutional or statutory

right to counsel in a proceeding under § 3582(c).¹ United States v. Webb, 565 F.3d 789, 794-95 (11th Cir. 2009). Instead, the district court has the discretionary authority to appoint counsel in the interests of justice. Webb, 565 F.3d at 795 n.4 (noting there may be equitable concerns that would make the appointment of counsel appropriate to ensure a just outcome). During the COVID-19 pandemic and beyond, the Court has read and considered myriad of compassionate release requests under § 3582(c)(1)(A) filed by *pro se* prisoners of varying educations, backgrounds, and circumstances. Generally speaking, these prisoners have adequately presented their cases to the Court for judicial review. The Court is confident this Defendant could also adequately present any case for sentence modification *pro se*.

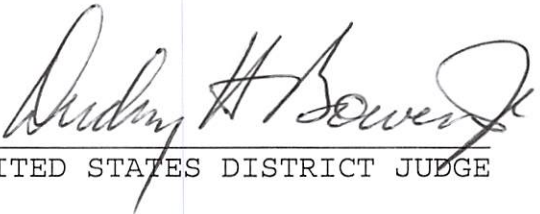
With respect to her complaints about the calculation of a release date and time credits, the vehicle by which Defendant may judicially challenge the Bureau of Prisons' actions in this regard is a petition for habeas relief under 28 U.S.C. § 2241. A § 2241 petition must be filed in the district of *confinement* rather than in the sentencing court. Fernandez v. United States, 941 F.2d 1488, 1495 (11th Cir. 1991); see also United States v. Nyhuis, 211 F.3d 1340, 1345 (11th Cir. 2000) ("A claim for credit for time served is brought under 28 U.S.C. § 2241 after the exhaustion of

¹ The Court has already denied Defendant's motion for sentence reduction under 18 U.S.C. § 3582(c)(2). (Order of June 18, 2024, Doc. No. 44.)

administrative remedies."). Thus, Defendant is advised that she must first exhaust her administrative remedies with the Bureau of Prisons and then file a § 2241 petition in the Southern District of West Virginia.

In conclusion, short of showing that the interests of justice require the appointment of counsel, which Defendant has not done, the Court **DENIES** her motion for the appointment of counsel (doc. no. 45).

ORDER ENTERED at Augusta, Georgia, this 12th day of July, 2024.


UNITED STATES DISTRICT JUDGE