United States Court of Appeals
For the Seventh Circuit|
Chicago, Illinois 60604

Submitted March 10, 2021
Decided March 26, 2021

Before

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

No. 19-2671

LORENZO WILLIAMS,
Petitioner-Appellant,

v.

STEVE KALLIS,
Respondent-Appellee.

Appeal from the United States District Court for the Central District of Illinois.

No. 1:19-cv-01083-MMM

Michael M. Mihm,
Judge.

ORDER

For using a knife to mug a cab driver, Lorenzo Williams was convicted in 2001 of Hobbs Act Robbery, 18 U.S.C. § 1951(a), in the Northern District of Iowa. This fit a pattern for Williams, whose prior holdups (numbering at least five) had led on three separate occasions to convictions for second-degree robbery under IOWA CODE §§ 711.1 and 711.3.

The federal court sentenced Williams to life imprisonment under the three-strikes law, 18 U.S.C.

§ 3559(c), because each robbery conviction was a "serious violent felony" under § 3559(c)(2)(F). Section 3559 defines a serious violent felony with (1) an "enumerated-offenses" clause that lists crimes including "robbery (as described in [18 U.S.C. §§] 2111, 2113, or 2118)"; (2) an "elements" clause that covers "any other offense . . . that has as an element the use, attempted use, or threatened use of physical force against the person of another"; and (3) a "residual" clause reaching "any other offense . . . that, by its nature, involves a substantial risk that physical force against the person of another may be used in the course of committing the offense."

For years, Williams has challenged his life sentence without result. *See United States v. Williams*, 308 F.3d 833, 839-40 (8th Cir. 2002) (affirming on direct appeal); No. C04-0002-CRW (N.D. Iowa Nov. 20, 2006) (denying motion to vacate sentence); No. 1:12-cv-1-LRR (N.D. Iowa Jan. 3, 2012) (dismissing, as successive, another motion to vacate); No. 13-1684 (8th Cir. July 29, 2013) (denying leave to file successive motion); No. C14-0064-LRR (N.D. Iowa June 3, 2014) (dismissing yet another successive motion to vacate); No. C16-0107-LRR (N.D. Iowa Oct. 2, 2017) (same); No. 16-2434 (8th Cir. Jan. 30, 2019) (denying leave to file successive motion).

Now Williams seeks a writ of habeas corpus under 28 U.S.C. § 2241 in the Central District of Illinois, where he is incarcerated. He argues that his Iowa robberies are not serious violent felonies under the federal three-strikes law. Yet 28 U.S.C. § 2255(e) declares a

motion under § 2255 to be the exclusive remedy for a prisoner who seeks to collaterally attack a federal sentence, unless such a motion is "inadequate or ineffective to test the legality of his detention." We have held that § 2255 can be deemed inadequate or ineffective if the prisoner's claim relies on a new and retroactive change in statutory law that could not have been invoked in a first § 2255 motion. *Montana v. Cross*, 829 F.3d 775, 783 (7th Cir. 2016); *In re Davenport*, 147 F.3d 605, 610 (7th Cir. 1998).

So, to justify seeking habeas corpus relief in this circuit, Williams cites *Mathis v. United States*, 136 S. Ct. 2243 (2016), as a relevant change in law. *Mathis*, in interpreting an Iowa burglary statute and applying the enumerated-offenses clause of a federal recidivism statute to it, opined that the Eighth Circuit had at times misused the so-called "modified categorical approach" to classify crimes based on the means used to commit them; the modified categorical approach can be used only to differentiate between alternative elements that define distinct predicate offenses, not between different means of committing a single crime. *Id.* at 2249, 2251. In Williams's view, the sentencing court counted his Iowa robberies as serious violent felonies only because the Eighth Circuit erroneously permitted use of the modified categorical approach to parse IOWA CODE § 711.1, which includes forcible and non-forcible variants.

But the district court dismissed the petition on the ground that *Mathis* was not a "new" change in statutory law whose prior absence had prevented Williams

from making his argument on direct appeal or in his first § 2255 motion.

Regardless of whether *Mathis* is "new" for at least some petitioners, *see generally Chazen v. Marske*, 938 F.3d 851 (7th Cir. 2019), we agree with the district court's bottom line here. Williams could have raised his claim in earlier litigation in the Eighth Circuit, and if Eighth Circuit law foreclosed the claim, it did so for reasons that *Mathis* did not upset. Indeed, in 2019—a few years after *Mathis*—the Eighth Circuit recognized forcible variants of Iowa robbery as violent felonies. *See Golinveaux v. United States*, 915 F.3d 564, 569 (8th Cir. 2019). In doing so, the Eighth Circuit saw *Mathis* as changing nothing for this statute; the different variants of Iowa robbery describe alternative elements, not means. *See id.* at 570; *id.* at 572 (Colloton, J., concurring). It follows that *Mathis* did not make Williams's challenge to his sentence any more likely to succeed today than at the time of his sentencing. Because Williams was "entirely free to make his current argument" in his first § 2255 motion or his direct appeal, and *Mathis* changed nothing for him, he cannot proceed under § 2241 now. *Montana*, 829 F.3d at 785.

Williams does not identify an Eighth Circuit precedent that, at the time of his conviction or § 2255 motion, stood in the way of his present theory. He asserts only that he was foreclosed from pressing a constitutional claim that jurors, not judges, should determine the existence of prior convictions and their effect on a federal sentence. But the caselaw foreclosing that claim has not changed—least of all through *Mathis*,

which reaffirmed that judges may find whether the elements of defendants' prior convictions support a sentence enhancement. *See* 136 S. Ct. at 2252.

The judgment dismissing the petition is therefore summarily AFFIRMED. Williams's motion to proceed in forma pauperis is DENIED, and the motion to amend his brief is GRANTED to the limited extent that the court considered the arguments in the motion.