

NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

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

Submitted March 17, 2025*
Decided March 19, 2025

Before

FRANK H. EASTERBROOK, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 24-1789

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

TRAMALE J.M. HOOSER,
Defendant-Appellant.

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

No. 04-CR-20054

Colin S. Bruce,
Judge.

ORDER

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

Tramale J.M. Hooser appeals the denial of his two of his post-conviction motions seeking to terminate the remainder of a criminal sentence. The district court did not abuse its discretion in concluding that early termination is not warranted because of Hooser's criminal conduct while on supervision, and we affirm that decision. But because the second motion is, in substance, a successive petition to vacate his sentence under 28 U.S.C. § 2255, which he lacked leave to file, we vacate the denial of the motion and remand with instructions to dismiss the petition for lack of jurisdiction.

In 2005, Hooser pleaded guilty in the Central District of Illinois to one count of illegal possession of a firearm by a felon, in violation of 18 U.S.C. § 922(g). Based on three of his prior convictions, Hooser qualified for and received an enhanced sentence under the Armed Career Criminal Act, 18 U.S.C. § 924(e). The district court sentenced him to the statutory minimum of 180 months' imprisonment to be followed by a five-year term of supervised release.

In 2006, Hooser filed a pro se motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255, claiming that his counsel had been ineffective by not objecting to his allegedly illegal enhancement under the Armed Career Criminal Act. The district court denied the motion. Hooser later filed a "Rule 60(b) Motion," again based on his purportedly unlawful designation as an armed career criminal. The court construed this as an unauthorized successive collateral attack and dismissed it for lack of jurisdiction.

Hooser started his term of supervised release in 2017. Less than two years later, in 2019, he was arrested for drug possession. Hooser pleaded guilty in the Southern District of Indiana to possession with intent to distribute 50 grams or more of methamphetamine, *see* 21 U.S.C. § 841(a)(1), and was sentenced to 120 months' imprisonment. The Probation Office in the Central District of Illinois also petitioned to revoke the supervised release for his 2005 conviction based on his new criminal conduct. Hooser is currently serving the imprisonment portion of his 2019 sentence, and the petition to revoke his prior term of supervised release remains pending.

While serving this second sentence, Hooser moved for early termination of supervised release, *see* 18 U.S.C. § 3583(e)(1), and for a "writ of coram nobis," in connection with his 2005 conviction. In both motions, Hooser again argued that he was incorrectly sentenced as an armed career criminal. He argued that the court should vacate his sentence or, alternatively, that his supervised release should be terminated early to account for the erroneously long sentence.

The district court denied both motions. The court ruled that early termination of supervised release was not warranted by Hooser's conduct and would not serve the interests of justice. *See* 18 U.S.C. § 3553(a). Then, without considering if the writ of coram notice is ever available, *see* FED. R. CIV. PRO. 60(e), the court then that Hooser was only those who are out of custody may obtain the writ, whereas Hooser was "in custody" because the term of supervised release from his 2005 conviction was undischarged. Hooser appeals.

First, Hooser argues that the district court erroneously denied his motion for early termination of supervised release because it failed to properly consider the impact of the allegedly erroneous enhancement on his sentence. We find an abuse of discretion only when a district court commits a "serious error of judgment, such as the failure to consider an essential factor." *United States v. Lowe*, 632 F.3d 996, 997–98 (7th Cir. 2011).

The district court was well within its discretion here. As required, it looked to the appropriate factors in 18 U.S.C. § 3553(a) and determined that termination was not warranted. *See* 18 U.S.C. § 3583(e)(1); *Lowe*, 632 F.3d at 998. Specifically, the court highlighted that Hooser failed to comply with the conditions of his supervised release when he committed a serious drug offense only 15 months into his term of supervision. The court also explained that Hooser's swift and serious violation of the conditions of supervised release was not outweighed by his argument—rejected multiple times—that his 2005 sentence was unlawfully long.

As for Hooser's second motion, we do not address the merits because it was effectively an unauthorized successive petition under 28 U.S.C. § 2255, and the district court had no jurisdiction to consider it. The court correctly observed that Hooser seemed to "intentionally eschew" § 2255 in favor of an ancient writ. But a motion a defendant files after the time for direct appeal has expired, while in custody, and raising grounds mentioned in § 2255, is a collateral attack regardless of how the defendant labels it. *Melton v. United States*, 359 F.3d 855, 857 (7th Cir. 2004); *see also Adams v. United States*, 911 F.3d 397, 404 (7th Cir. 2018). Hooser's argument — that his sentence was above the maximum authorized by law — falls within the scope of § 2255(a). And despite Hooser's argument to the contrary, supervised release is "custody" for purposes of § 2255. *See e.g., Clarke v. United States*, 703 F.3d 1098, 1101 (7th Cir. 2013). Hooser's motion is therefore properly construed as a successive and unauthorized collateral attack. He did not have this court's permission to file it, so the district court lacked jurisdiction to decide it on the merits. 28 U.S.C. § 2244(b)(3)(A); *United States v. Boyd*, 591 F.3d 953, 957 (7th Cir. 2010).

We can consider Hooser's appeal to be an implied request for permission to file a successive collateral attack. But he does not assert valid grounds under 28 U.S.C. § 2255(h), and we therefore deny permission. Further, Hooser was required to obtain a certificate of appealability before appealing the final decision of the district court denying relief. 28 U.S.C. § 2253(c)(1)(B). To the extent we construe his appellate filings as an implied request for a certificate of appealability, he does not meet the criteria, and so we deny that request, too. *See id.* § 2253(c)(2).

The district court's decision on the motion for a writ of coram nobis is VACATED and REMANDED with instructions to dismiss for lack of jurisdiction. The decision regarding the motion for early termination of supervised release is AFFIRMED.