

UNITED STATES COURT OF APPEALS **October 7, 2021**
TENTH CIRCUIT **Christopher M. Wolpert**
Clerk of Court

BROOKS TERRELL,

Petitioner - Appellant,

v.

UNITED STATES OF AMERICA,

Respondent - Appellee.

No. 21-1254
(D.C. No. 1:21-CV-01090-LTB-GPG)
(D. Colo.)

ORDER AND JUDGMENT*

Before **BACHARACH, MURPHY, and CARSON**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Brooks James Terrell, proceeding *pro se*, appeals the district court's dismissal of the habeas corpus petition he filed pursuant to 28 U.S.C. § 2241.

*This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

Exercising jurisdiction under 28 U.S.C. § 1291, we **grant** his motion to proceed *in forma pauperis* on appeal and **affirm** the district court's dismissal of his § 2241 petition for lack of jurisdiction.

In 2001, Terrell was convicted in the District of South Carolina of attempted car jacking resulting in serious bodily injury, possession of a firearm by a convicted felon, using and discharging a firearm during a crime of violence, and possession of crack cocaine with intent to distribute. *United States v. Terrell*, 21 F. App'x 216 (4th Cir. 2001) (unpublished disposition). The Court of Appeals for the Fourth Circuit denied Terrell's direct appeal and, thereafter, denied his request for a certificate of appealability to challenge the denial of his 28 U.S.C. § 2255 motion to vacate, set aside, or correct his sentence. *Id.*; *United States v. Terrell*, 60 F. App'x 484 (4th Cir. 2003).

On May 18, 2020, Terrell filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The claims Terrell sought to raise in his § 2241 petition were collateral challenges to the sentence imposed by the South Carolina district court in 2001. Terrell recognizes he can only use § 2241 to collaterally attack his sentence if he meets the standard set out in 28 U.S.C. § 2255(e). Relying on this court's opinion in *Prost v. Anderson*, 636 F.3d 578, 584-86 (10th Cir. 2011), the Colorado district court concluded Terrell failed to meet his burden under § 2255(e) to show the remedy afforded him under 28 U.S.C. § 2255 is "inadequate or ineffective to test the legality of his detention."

Our review of the entire record confirms that Terrell has failed to show that § 2255 is inadequate or ineffective. His challenge to his sentence, therefore, cannot be raised in a § 2241 petition. Accordingly, we **affirm** the dismissal of Terrell's § 2241 petition for substantially the reasons stated by the district court.

ENTERED FOR THE COURT

Michael R. Murphy
Circuit Judge