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for the Third Circuit

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Frederick Banks v. Warden Allenwood FCI

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 21-1839

FREDERICK H. BANKS,
Appellant

v.

WARDEN ALLENWOOD FCI

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civil Action No. 1-21-cv-00708)
District Judge: Honorable Christopher C. Conner

Submitted for Possible Summary Action
Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
July 15, 2021

Before: JORDAN, KRAUSE and PHIPPS, Circuit Judges

(Opinion filed: August 10, 2021)

OPINION*

PER CURIAM

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Frederick Banks appeals the District Court's order dismissing his petition filed pursuant to 28 U.S.C. § 2241. For the reasons that follow, we will summarily affirm the District Court's judgment.

Banks, a federal prisoner, filed a petition for habeas corpus in which he alleged that prison officials were not sending his emails to his counsel representing him on his direct appeal from his criminal conviction. He contended that he was discriminated against as an American Indian. He requested that prison officials be ordered to send his emails and enjoined from further illegal conduct. The District Court dismissed the petition before service, concluding that Banks did not challenge the fact or duration of his confinement and a habeas petition was not an appropriate remedy for his challenge to the conditions of his confinement. This dismissal was without prejudice to Banks' raising his claims in a civil rights action. Banks filed a notice of appeal.

We have jurisdiction pursuant to 28 U.S.C. § 1291 and exercise plenary review over the District Court's legal conclusions. Cradle v. U.S. ex rel. Miner, 290 F.3d 536, 538 (3d Cir. 2002). We may summarily affirm a district court's decision "on any basis supported by the record" if the appeal fails to present a substantial question. See Murray v. Bledsoe, 650 F.3d 246, 247 (3d Cir. 2011) (per curiam).

The District Court did not err in concluding that Banks's claims do not lie at the "core of habeas" and, therefore, are not cognizable in a § 2241 petition. See Leamer v. Fauver, 288 F.3d 532, 542-44 (3d Cir. 2002). None of his claims challenged the fact or

length of his sentence or confinement. See Preiser v. Rodriguez, 411 U.S. 475, 500 (1973).

For the reasons above, as well as those set forth by the District Court, this appeal does not present a substantial question. Accordingly, we will summarily affirm the District Court's judgment.