

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 01-5149

September Term, 2000

01cv00429

Filed On: August 2, 2001 [614747]

Reynaldo Alonso Atkins,
Appellant

v.

Nancy Bailey, Warden, Fort Dix, NJ,
Appellee

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

BEFORE: Edwards, Henderson, and Rogers, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief filed by appellant. The court has determined that the issues presented occasion no need for an opinion. See Fed. R. App. P. 36; D.C. Cir. Rule 36(b). It is

ORDERED AND ADJUDGED that the district court's judgment filed April 16, 2001, dismissing appellant's habeas corpus petition without prejudice, be affirmed. Appellant's application for a writ of habeas corpus filed under 28 U.S.C. § 2241 constitutes an attack on the validity of his conviction and sentence, which should be pursued via a motion under 28 U.S.C. § 2255. See Charles v. Chandler, 180 F.3d 753, 755-56 (6th Cir. 1999) (per curiam). Appellant has not demonstrated that his remedy under § 2255 would be "inadequate or ineffective." 28 U.S.C. § 2255. Moreover, appellant made clear that he did not intend that his petition be construed as a § 2255 motion.

The Clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam