03-10034

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
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DAVID WATTLETON,

Petitioner,

vs.

ARTHUR F. BEELER, Warden,

Respondent.

PETITION FOR WRIT OF HABEAS CORPUS

PURSUANT TO 28 U.S.C. SECTION 2241

BY A PERSON IN FEDERAL CUSTODY

PETITION FOR WRIT OF HABEAS CORPUS TO

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA

ATLANTA DIVISION

DAVID WATTLETON
Federal Medical Center
Butner
P.O. Box 1600
Butner, N.C. 27509

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QUESTIONS PRESENTED

In a federal petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 did the district court err by construing the petition as a successive 28 U.S.C. § 2255 motion where the committing court did not answer or address his claims questioning the accuracy and constitutionality of his commitment into the custody of the Attorney General of the United States following a jury verdict of not guilty by reason of insanity.

And by not answering or addressing the petitioner's claims did the committing court fail to protect the petitioner's right to seek habeas relief on those grounds in the prior determination and did the court's failure obstruct petitioner's opportunity to overturn his conviction.

STATEMENT OF THE CASE

David Wattleton was indicted for making " terroristic threats " a criminal violation of 18 U.S.C. § 844, and found not guilty by reason of insanity on June 8, 2000. See United States v Wattleton, 110 F. Supp.2d. 1380 (N.D.Ga 2001). Wattleton argued that he was not guilty, while the government argued that he was not guilty by reason of insanity. On August 9, 2000, the district court held a hearing pursuant to 18 U.S.C. § 4243(c), to determine whether he should be committed or released. The district court determined that Wattleton failed to prove by clear and convincing evidence that his release " would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect." 18 U.S.C. § 4243(d). (R2-78-2) Based on this finding, the district court ordered Wattleton committed to the custody of the Attorney General. At all times relevant to this action Wattleton was presently at the Federal Medical Center at Butner, North Carolina.

Wattleton appealed the jury's insanity verdict and the district court's August 29, 2000, commitment order to the Eleventh Circuit Court of Appeals. After

rejecting Wattleton's claims, the Eleventh Circuit affirmed the verdict and the August 29, 2000, commitment order. See, United States v Wattleton, 296 F.3d 1184 (11th Cir 2002).

On July 19, 2002, Wattleton filed a pro se motion to vacate pursuant to 28 U.S.C. § 2255. [Doc. 128] In that motion, Wattleton claimed that counsel rendered ineffective assistance in several instances at trial and on direct appeal. By order entered on January 10, 2003, the district court denied Wattleton's § 2255 motion to vacate. [Doc.158] Wattleton then appealed the denial of his § 2255 motion to the Eleventh Circuit. The Eleventh Circuit rejected Wattleton's claims on appeal and affirmed the denial of Wattleton's § 2255 motion. [Doc. 190] Wattleton v United States, Case No. 03-10422 (11th Cir 2003). Wattleton then appeal to the full court for rehearing en banc which was denied on December 11, 2003.

On December 18, 2003, Wattleton submitted the instant § 2241 petition. The district court dismissed the § 2241 but first construed it as a successive § 2255 motion dismmissing it pursuant to Rule 4(b) of the rules governing § 2255.

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
OCT 27 2003
THOMAS K. KAHN
CLERK

No. 03-10422
Non-Argument Calendar

D.C. Docket No. 02-02049-CV-TWT

DAVID EARL WATTLETON,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeal from the United States District Court for the
Northern District of Georgia

(October 27, 2003)

Before CARNES, HULL, and WILSON, Circuit Judges.

PER CURIAM:

David Earl Wattleton, proceeding pro se, appeals the denial of his motion to vacate his sentence pursuant to 28 U.S.C. § 2255. After review, we affirm.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DAVID EARL WATTLETON, Petitioner, vs. ARTHUR F. BEELER, Warden, Respondent.	CIVIL ACTION FILE NO. 1:03-cv-3943-RWS

JUDGMENT

This petition for a writ of habeas corpus, filed pursuant to 28 U.S.C. §2241, having come before the Court, Honorable Richard W. Story, United States District Judge, for consideration on the merits, and the Court having construed said petition as a successive § 2255 motion, it is,

Ordered and Adjudged that the petition for a writ of habeas corpus, construed as a successive § 2255 motion, is hereby **dismissed** pursuant to Rule 4(b).

Dated at Atlanta, Georgia, this 26th day of March, 2004.

LUTHER D. THOMAS
CLERK OF COURT

By: Deputy Clerk

Prepared, Filed and Entered
in the Clerk's Office
March 26, 2004
Luther D. Thomas
Clerk of Court

By: Deputy Clerk