

No # 22-6499

In The

Supreme Court of The United States

DeWay B. Thornton-Bey - Petitioner

vs

Warden of USP Allenwood - Respondent

United States Court of Appeals For The Third Circuit

Petition For Rehearing

DeWay B. Thornton-Bey

USP Allenwood P.O. Box 3000

White Deer PA 17887

(570) 547-0763

Grounds For Rehearing Rule 44

1) United States Court of Appeals For The Third Circuit has "DEPARTED" from the accepted and usual course of judicial proceedings, as to call for an exercise of this Court's "SUPERVISORY" power.

2) United States Court of Appeals For The Third Circuit has decided an important federal question in a way that "CONFLICTS" with relevant decisions of this Court.

On certiorari the United States Supreme Court "reversed and remanded". In a opinion by Stevens, J. joined by O'Connor, Souter, Ginsburg and Breyer, J.J. it was that the District Court had jurisdiction under 28 U.S.C. 2241 to review the "legality of the plaintiffs detention". See *Al Odah v. United States*, et al 542 U.S. 466; 124 S. Ct. 2686; 159 L. Ed 2d 548; 2004 U.S. LEXIS 4760; U.S. L.W. 4596, 2004 Fla L. Weekly Fed S. 457

On May 17, 2021 petitioners filed a 28 USC 2241 on 21 years of "Unlawful Custody", by the Warden of USP Allenwood, (BOP) federal government. The BOP never obtained primary Jurisdiction (legal custody) that is needed by BOP to imprison anyone according to 18 USC 3525(a) Custody. See Johnson v. Gill-Warden 883 F.3d 756, 2018 U.S. App LEXIS 3950, attached ^{pg 2} p2.

On Sept 24, 2021 District Court Christopher J. Conner Dismissed petitioners writ of Habeas Corpus for Lack of Jurisdiction. And on May 27, 2022 DENIED Motion for Rehearing.

On Sept 22, 2022 The United State Court of Appeals For The Third Circuit AFFIRMED stating: The District Court correctly determined that it did "not have Jurisdiction" to consider Thornton-Rey's 2241 petition challenging the "legality of his detention". See ORDER attached pg 5.

Now Congress has GRANTED federal District courts, within their respective jurisdictions, the authority to hear applications for habeas Corpus by any person who claims to be held in custody in violation

of the Constitution (Due process 5th Amendment) or Law (18 USC 3585(a) (custody)) or Treaties of the United States. 28 USC 2241(a)(3)

And the Supreme Court of the United States held the writ of Habeas Corpus does not act upon the prisoner who seeks relief but upon the person (Warden of USP Allenwood) who holds him petitioner in what is alleged to be unlawful custody. See *Al Odah v. United States*. And adds a district court acts within its respective jurisdiction within the means of 28 USC 2241 as long as the person custodian can be reached by service of process.

Petitioner stated that this case is of "Extraordinary Circumstances" because both the District Court and the Appeals Court of the Third Circuit, knew the district court had jurisdiction to consider petitioners 2241, but they stated Lack of Jurisdiction.

In appeal case 22-2147 petitioner cited cases 2 that proved such. Stating Courts have habeas corpus jurisdiction to petitions challenging not the validity but "the execution".

The Third Circuit Court of Appeals defined "Execution" as meaning "to put into effect or carry out." See Jose C. Cardona v.

Warden B.A. Blackrose 681 F.3d 533, 2012 U.S. App LEXIS 12353

(3rd Cir June 19 2012) ^{see} Attached pg 5, Doc # 7

And I also cited the case that was before Christopher J.

Conner's Opinion II Disposition he states: The Writ of Habeas Corpus has traditionally been to inquire into the "legality of the detention" and the only judicial relief authorized was the "DISCHARGE" of the prisoner or his admission to jail and that only if his "detention" were found to be "Unlawful". See Ronald E. Cooks

v. E. Brandley, 2021 U.S. Dist LEXIS 85629 (MD May 5, 2021) att'd Doc # 7. pg 5

Judge Christopher J. Conner went on to cite from Wilkinson v. Eston (Habeas Corpus relief is available only when prisoners "seek to invalidate the duration of their confinement - either directly through an injunction compelling speedier release or indirectly through a judicial determination that necessarily implies the - the Unlawfulness of government's custody". See Wilkinson v. Pg 4

Dotson 524 U.S. 74, 81 125 S.Ct 1242, 161 L.Ed 253 (2005)

See Doc #7 Attached pg's 5, 8 and 9.

Thus the Supreme Court of the United States is called to exercise this courts "SUPERVISORY" power, to assure that the law that governs 2241 Habeas Corpus executed properly. And those who are entitled to relief are provided that relief for the sake of Justice, and GRANT petition For Rehearing.

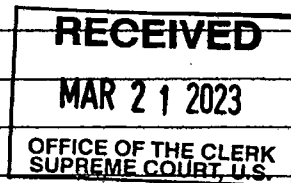
March 12, 2023

De Juan P. Thornton-Jey
In propria persona Sai Tupa

Certification of De Tran Thornton-Pey

Petition for rehearing is limited to the grounds of "Interposing circumstances of a substantial or controlling effect," and it is presented in good faith and not for delay.

De Tran P. Thornton-Pey
In Propria Persona Luit Joris



NOT PRECEDENTIAL

**UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

No. 22-2147

DEJUAN B. THORNTON-BEY,
Appellant

v.

WARDEN ALLENWOOD USP

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. No. 1:21-cv-00874)

District Judge: Honorable Christopher C. Conner

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B) or
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6 on
September 22, 2022

Before: AMBRO, SHWARTZ, and BIBAS, Circuit Judges

(Opinion filed: September 29, 2022)

challenging jurisdiction have been unsuccessful and have drawn a warning from the Seventh Circuit does not render similar claims appropriate under § 2241. Thornton-Bey's claim falls within the purview of § 2255 and, as the District Court noted, he may seek the Seventh Circuit's authorization under § 2255(h) to file another § 2255 motion.

The District Court correctly determined that it did not have jurisdiction to consider Thornton-Bey's § 2241 petition challenging the legality of his detention, and did not abuse its discretion in denying his Rule 59(e) motion, which raised the same challenges to his conviction contained in his § 2241 petition. As this appeal does not present a substantial question, we will summarily affirm the judgment of the District Court. See 3d Cir. L.A.R. 27.4; I.O.P. 10.6.

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85/10/2021

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DEJUAN B. THORNTON-BEY,	:	CIVIL ACTION NO. 1:21-CV-874
	:	
Petitioner	:	(Judge Conner)
	:	
v.	:	
	:	
H. QUAY, WARDEN,	:	
	:	
Respondent	:	

ORDER

AND NOW, this 17th day of May, 2021, upon consideration of the petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2241 (Doc. 1), it is hereby

ORDERED that:

1. The habeas petition (Doc. 1) is DEEMED filed.
2. The Clerk of Court is directed to serve a copy of the petition (Doc. 1) and this order on the respondent. See R. GOVERNING § 2254 CASES R. 4, 1(b) (applicable to petitions under 28 U.S.C. § 2241 in the discretion of the court). All documents filed by the parties and by the court shall be served upon the United States Attorney.
3. Respondent shall file, within twenty-one (21) days from the date of this order, an answer to the petition (Doc. 1). See R. GOVERNING § 2254 CASES R. 1(b), 5(b)-(d) (explaining required contents of answer and supporting materials).
4. Petitioner shall be permitted to file, within fourteen (14) days of the date on which the answer is filed, a reply to the answer. See R. GOVERNING § 2254 CASES R. 1(b), 5(e).

**Additional material
from this filing is
available in the
Clerk's Office.**