

APPENDIX A

5/15/23 Procedural denial of 28 U.S.C. 2255

by District Court in the Northern District of Indiana

(South Bend)

Case No. 3:23-cv-343-RLM

arising from: 3:03-cr-22-RLM

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

DARRELL TURNER)
Petitioner,)
v.) CAUSE NO. 3:23-CV-343-RLM
United States of America) (Arising from 3:03-CR-22-RLM-2)
Respondent.)

ORDER

In 2003, Darrell Turner pleaded guilty to three charges. A jury found him guilty of four others, including, for purposes of this motion, unlawful possession of a firearm by a felon, 18 U.S.C. § 922(g)(1). Mr. Turner now seeks to vacate that conviction under 28 U.S.C. § 2255 [Doc. 333 in 3:03-CR-22], moves to expedite [Doc. 335], and moves for appointment of counsel. [Doc. 336].

A prisoner in federal custody may move to vacate a sentence if the sentence was “imposed in violation of the Constitution or laws of the United States.” 28 U.S.C. § 2255(a). Section 2255 gives a federal prisoner one opportunity to challenge a conviction and sentence following a direct appeal. *See id.* § 2255(a), (h). A federal prisoner may only bring a second or successive § 2255 motion if a panel of the court of appeals has authorized the second or successive motion. *Id.* § 2255(h).

Mr. Turner filed a § 2255 motion in December 2006 [Doc. 158] and the court denied the motion in September 2007. [Doc. 175]. Then in August 2011, Mr. Turner filed a “motion to re-open petition pursuant to § 2255.” [Doc. 260].

The court denied the motion as an unauthorized successive petition, explaining that Mr. Turner needed authorization from the court of appeals to file a successive motion under § 2255. [Doc. 262]. Mr. Turner appealed, and the court of appeals affirmed that ~~dismissal was proper because Mr. Turner hadn't~~ obtained authorization for a second or successive motion. [Doc. 300].

Mr. Turner hasn't shown that he sought authorization from the Seventh Circuit Court of Appeals before filing this successive motion under § 2255. If Mr. Turner wishes to challenge his conviction yet again, he must persuade the court of appeals to certify the motion and authorize the district court to hear it. See 28 U.S.C. §§ 2244(a)–(b), 2255(h). Accordingly, this motion is DENIED.

Mr. Turner also moves to expedite his § 2255 motion under 28 U.S.C. § 1657(a) [Doc. 335] and moves for appointment of counsel. [Doc. 336]. Both motions are DENIED AS MOOT.

SO ORDERED.

ENTERED: May 2, 2023

/s/ Robert L. Miller, Jr.
Judge, United States District Court

APPENDIX B

5/6/2024 Denial of Certificate of Appealability

by Seventh Circuit Court of Appeals

Appeal No. 23-1920

Case No. 3:23-cv-343-RLM

arising from: 3:03-cr-22-RLM

(Northern District of Indiana, South Bend)

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted February 9, 2024

Decided May 6, 2024

Before

AMY J. ST. EVE, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 23-1920

DARRELL TURNER,
Petitioner-Appellant,

Appeal from the United States District
Court for the Northern District of
Indiana, South Bend Division.

v.

No. 3:23-cv-343-RLM

UNITED STATES OF AMERICA,
Respondent-Appellee.

Robert L. Miller, Jr.,
Judge.

ORDER

Darrell Turner has filed a notice of appeal from the dismissal of his motion under 28 U.S.C. § 2255 and an application for a certificate of appealability. Regardless of whether Turner's most recent § 2255 motion is successive, Turner has made no substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2).

Accordingly, the request for a certificate of appealability is DENIED. Turner's motion to proceed in forma pauperis also is DENIED.

APPENDIX C

8/7/2024 Denial of Rehearing and/or Rehearing En Banc

by Seventh Circuit Court of Appeals

Appeal No. 23-1920

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

August 7, 2024

Before

AMY J. ST. EVE, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 23-1920

DARRELL TURNER,

Petitioner-Appellant,

Appeal from the United States District
Court for the Northern District of Indiana,
South Bend Division.

v.

No. 3:23-cv-343-RLM

UNITED STATES OF AMERICA,

Respondent-Appellee.

Robert L. Miller, Jr.,
Judge.

ORDER

On consideration of the petition for panel rehearing and/or rehearing en banc, no judge in regular active service has requested a vote on the petition for rehearing en banc¹ and the judges on the original panel have voted to deny rehearing. It is, therefore, ORDERED that the petition for rehearing and/or rehearing en banc is DENIED.

¹ Circuit Judges Thomas L. Kirsch II and Nancy L. Maldonado did not participate in the consideration of this petition for rehearing en banc.

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