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States Court of Appeals
for the Third Circuit

5-17-2007

Banks v. Atty Gen USA

Precedential or Non-Precedential: Non-Precedential

Docket No. 07-1307

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-1307

TRAVIS BANKS, Appellant

v.

UNITED STATES ATTORNEY GENERAL

On Appeal From the United States District Court
For the Eastern District of Pennsylvania
(D.C. Civ. No. 07-cv-00182)
District Judge: Honorable Mary A. McLaughlin

Submitted For Possible Summary Action Under
Third Circuit LAR 27.4 and I.O.P. 10.6

Before: BARRY, AMBRO and FISHER, Circuit Judges

(Filed: May 17, 2007)

OPINION

PER CURIAM

Travis Banks appeals from an order dismissing his petition for writ of habeas corpus. This case arises from Banks' arrest in the District of Columbia for carrying a dangerous weapon (a flare gun) on the steps of the United States Supreme Court in September 2006. Banks was incarcerated and subsequently filed a petition for

writ of habeas corpus in the United States District Court for the District of Columbia. See Banks v. United States Attorney General, Civ. No. 07-cv-00021.¹

Banks also filed a petition for writ of habeas corpus in January 2007, in the United States District Court for the Eastern District of Pennsylvania. As noted by the District Court, it is somewhat unclear the relief Banks sought by filing this petition in the Eastern District of Pennsylvania. To the extent that Banks' petition could be perceived as a habeas petition pursuant to 28 U.S.C. § 2241, he must file the petition in the District Court having jurisdiction over Banks' custodian (which is not the Eastern District of Pennsylvania). See Rumsfeld v. Padilla, 542 U.S. 426, 442 (2004). Therefore, because Banks' appeal presents no substantial question, we will summarily affirm.² Banks' motion to seal, motion for security tapes, motion for default and summary judgment as well as his motion for an emergency hearing and witness protection are denied.

¹ This habeas petition is still pending in the District Court for the District of Columbia.

² To the extent that Banks' petition could be perceived as a habeas petition pursuant to 28 U.S.C. § 2254, see Coady v. Vaughn, 251 F.3d 480, 484-85 (3d Cir. 2001), we would deny a certificate of appealability. Banks cannot bring a § 2254 habeas petition in the Eastern District of Pennsylvania under these circumstances. See 28 U.S.C. § 2241(d).