

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 04-5159

September Term, 2003

04cv00563

Filed On: September 23, 2004

[849946]

Carey A. Fortson,
Appellant

v.

United States Sentencing Commission,
Appellee

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

BEFORE: Ginsburg, Chief Judge, and Sentelle and Garland,
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. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the district court's order filed April 8, 2004 be affirmed. The court properly dismissed appellant's mandamus petition without prejudice on the ground that the petition represents a collateral attack on appellant's sentence that he must pursue through a motion to vacate his sentence filed in the sentencing court pursuant to 28 U.S.C. § 2255. See, e.g., Chatman-Bey v. Thornburgh, 864 F.2d 804, 808-10 (D.C. Cir. 1988) (en banc).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution 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