

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

---

No. 95-4403

---

D.C. Docket No. 94-6258-CIV-UUB

CARL EUGENE WATTS,

Petitioner-Appellee,

versus

HARRY K. SINGLETARY,

Respondent-Appellant.

---

Appeal from the United States District Court  
for the Southern District of Florida

---

**(December 19, 1996)**

ON PETITION FOR REHEARING EN BANC

(Opinion July 18, 1996, 11th Cir., 87 F.3d 1282)

Before HATCHETT, Chief Judge, TJOFLAT, KRAVITCH, ANDERSON,  
EDMONDSON, COX, BIRCH, DUBINA, BLACK, CARNES and BARKETT, Circuit  
Judges.

PER CURIAM:

The Court having been polled at the request of one of the  
members of the Court and a majority of the Circuit Judges who are  
in regular active service not having voted in favor of it (Rule

35, Federal Rules of Appellate Procedure; Eleventh Circuit Rule 35-5), the Suggestion of Rehearing En Banc is DENIED.

BARKETT, Circuit Judge, dissenting:

I respectfully dissent from the order of the majority of the court in denying the petition of appellee Carl Watts for en banc rehearing. This case presents important issues which, for reasons stated in Judge Carnes's dissent, were erroneously decided.