

United States Court of Appeals,
Eleventh Circuit.

No. 95-4403.

Carl Eugene WATTS, Petitioner-Appellee,

v.

Harry K. SINGLETARY, Respondent-Appellant.

Dec. 19, 1996.

Appeal from the United States District Court for the Southern District of Florida (No. 94-6258-CIV-UUB), Ursula Ungaro-Berages, Judge.

ON PETITION FOR REHEARING EN BANC

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

Before HATCHETT, Chief Judge, and 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.