

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 99-10862

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
AUGUST 31, 2001
THOMAS K. KAHN
CLERK

D. C. Docket No. 98-00282-3-CV-RH

JERRY J. KILPATRICK,

Petitioner-Appellee,

versus

SAMUEL H. HOUSTON,

Respondent-Appellant.

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

(August 31, 2001)

ON REMAND FROM THE UNITED STATES SUPREME COURT

Before BLACK, GODBOLD and FAY, Circuit Judges.

PER CURIAM:

Petitioner-Appellee has been released from custody. This appeal is therefore moot. Accordingly, this appeal is DISMISSED, and this case is REMANDED to the district court with instructions to dismiss the petition as moot. *See Bekier v.*

Bekier, 248 F.3d 1051, 1055-56 (11th Cir. 2001) (“Where a case becomes moot after the district court enters judgment but before the appellate court has issued a decision, the appellate court must dismiss the appeal, vacate the district court’s judgment, and remand with instructions to dismiss as moot.”) (quoting *United States v. Ghandtchi*, 705 F.2d 1315, 1316 (11th Cir. 1986)).

DISMISSED and REMANDED with instructions.