

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

AUG 30 1999

PATRICK FISHER
Clerk

UNITED STATES OF AMERICA,

Respondent - Appellee,

v.

HERMAN TRACY CLARK,

Petitioner - Appellant.

No. 99-6200

W.D. Oklahoma

(D.C. No. CV-99-111-C)

ORDER AND JUDGMENT *

Before **ANDERSON** , **KELLY** , and **BRISCOE** , Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

After filing multiple unsuccessful petitions for a writ of habeas corpus, pursuant to 28 U.S.C. § 2255, the petitioner in this case, Herman Tracy Clark,

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

filed a petition for a writ of *coram nobis* . The magistrate judge recommended that the petition be denied. The district court, upon *de novo* review, adopted the magistrate judge's report and recommendation and denied the writ. Mr. Clark appeals from that denial.

For the reasons stated in the magistrate judge's report and recommendation, filed April 23, 1999, we affirm. Such writs were largely abolished in 1948, leaving only an exceedingly narrow independent action exception for grave miscarriages of justice. *United States v. Beggerly* , 524 U.S. 38 (1998). This case does not fall into that category.

AFFIRMED. The mandate shall issue forthwith.

ENTERED FOR THE COURT

Stephen H. Anderson
Circuit Judge