

File Name: 09a0146p.06

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

DERRICK BELL,

Petitioner-Appellant,

v.

KURT JONES, Warden, Carson City
Correctional Facility,

Respondent-Appellee.

No. 08-1775

Filed: April 14, 2009

Before: MERRITT, MARTIN, and SUHRHEINRICH, Circuit Judges.

ORDER

Derrick Bell, a pro se Michigan prisoner, petitions the court to rehear en banc an order denying him a certificate of appealability. The motion has been referred to this panel of three judges, two of whom are senior judges, on which the original deciding judge does not sit, for a determination on the merits of the petition for rehearing. We conclude that the original deciding judge did not misapprehend or overlook any point of law or fact when he issued his order, and, accordingly, declines to rehear the matter. Fed. R. App. P. 40(a).

The Clerk shall now refer the matter to all of the active eligible members of the court for further proceedings on the suggestion for en banc rehearing.

ENTERED BY ORDER OF THE COURT

/s/ Leonard Green

Clerk