

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

File Name: 08a0759n.06

Filed: December 15, 2008

No. 07-2350

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

ANTHONY LEGION,)
)
Petitioner-Appellee,)
)
v.)
)
KENNETH T. MCKEE, Warden,)
)
Respondent-Appellant.)
_____)

**ON APPEAL FROM THE
UNITED STATES DISTRICT
COURT FOR THE EASTERN
DISTRICT OF MICHIGAN**

O P I N I O N

Before: MOORE and WHITE, Circuit Judges; and VINSON,* District Judge.

Per curiam. The issue raised in this habeas appeal has been conclusively decided by another panel of this court. *See Desai v. Booker*, 538 F.3d 424 (6th Cir. 2008). The Opinion and Order of the district court must be, and is, REVERSED on the basis of the *Desai* decision. This case is REMANDED to the district court for further proceedings.

*The Honorable C. Roger Vinson, United States District Judge for the Northern District of Florida, sitting by designation.