

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA

CARMEN TATE, )  
vs. Petitioner, ) 2:09-cv-130-WTL-JMS  
HELEN J. MARBERRY, Warden, )  
Respondent. )

## Entry Discussing Petition for Writ of Habeas Corpus

The petition for a writ of habeas corpus of Carmen Tate challenging the enhancement of a sentence imposed in the United States District Court for the Northern District of Illinois pursuant to 21 U.S.C. § 851 is dismissed for lack of jurisdiction. The reason for this ruling is that Tate's challenge has been presented to the sentencing court through one or more actions brought pursuant to 28 U.S.C. § 2255. He cannot use 28 U.S.C. § 2241 to challenge his sentence in the district of his confinement. *Unthank v. Jett*, 549 F.3d 534, 536 (7th Cir. 2008).

If the court lacks jurisdiction over the subject matter, its only proper course is to note the absence of jurisdiction and dismiss the case on that ground. *Steel Co. v. Citizens for a Better Environment*, 118 S. Ct. 1003, 1012 (1998); *Cook v. Winfrey*, 141 F.3d 322, 324-326 (7th Cir. 1998). That is the disposition required in this action.

Judgment consistent with this Entry shall now issue.

## IT IS SO ORDERED.

Date: 12/28/2009

William Lawrence

Hon. William T. Lawrence, Judge  
United States District Court  
Southern District of Indiana