

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

DEC 22 2005

JOHN F. CORCORAN, CLERK
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ANDRE' J. ASHTON,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

Civil Action No. 7:05-cv-00766

FINAL ORDER

By: Hon. James C. Turk
Senior United States District Judge

In accordance with the accompanying memorandum opinion, it is hereby

ADJUDGED AND ORDERED

petitioner's petition for writ of habeas corpus, pursuant to 28 U.S.C. §2241, is hereby **DENIED**; his petition is hereby construed as a second or successive motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. §2255, and **DISMISSED** without prejudice; and the action is hereby stricken from the active docket of the court.

The Clerk is directed to send certified copies of this order and the accompanying memorandum opinion to petitioner and to counsel of record for the respondent.

ENTER: This 22nd day of December, 2005.

James C. Turk

Senior United States District Judge