

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 06-3730

IN RE: GEORGE SALEMO,
Petitioner

On Petition for a Writ of Mandamus from the
United States District Court for the
Eastern District of Pennsylvania
(Related to E.D. Pa. Crim. No. 92-cr-00547)

Submitted Under Rule 21, Fed. R. App. P.
August 31, 2006

Before: CHIEF JUDGE SCIRICA, WEIS AND GARTH, CIRCUIT JUDGES

(Filed : October 25, 2006)

OPINION

PER CURIAM

George Salemo has filed a mandamus petition pursuant to 28 U.S.C. § 1651, seeking, in essence, to compel the District Court for the Eastern District of Pennsylvania to comply with an order issued by this Court in his prior action docketed at C.A. No. 04-1530, see In re Salemo, 130 Fed.Appx. 564, 2005 WL 1111761 (3d Cir. May 11, 2005), and assert jurisdiction over his motion filed pursuant to 28 U.S.C. § 2255. After Salemo

filed his mandamus petition, the District Court entered an order rescinding its prior order wherein it had concluded that it lacked jurisdiction to consider his § 2255 motion. In accordance with our decision in In re Salemo, 130 Fed.Appx. at 566, 2005 WL 1111761, *2, the District Court indicated that it would consider Salemo's motion as if it were the first § 2255 motion filed by petitioner. Additionally, the District Court entered an order on October 5, 2006, directing the government to file a response to Salemo's § 2255 motion within thirty days.

Accordingly, insofar as the District Court has done that which Salemo has sought to have this Court compel it to do, the petition for a writ of mandamus will be denied as moot.