

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 06-4038

DOMINGO GOMEZ-PULIDO,
Appellant
vs.

UNITED STATES OF AMERICA

On Appeal From the United States District Court
For the Eastern District of Pennsylvania
(D.C. Civ. No. 06-cv-2830)
District Judge: Honorable Michael M. Baylson

Submitted For Possible Summary Action Under Third Circuit LAR 27.4 and I.O.P. 10.6
March 22, 2007

Before: MCKEE, FUENTES and WEIS, CIRCUIT JUDGES

Filed: April 18, 2007

OPINION

PER CURIAM.

Domingo Gomez-Pulido appeals the District Court's order denying his petition filed pursuant to 28 U.S.C. § 2241. On February 15, 2006, Gomez-Pulido was indicted for distribution of cocaine in violation of 21 U.S.C. § 841(a)(1). On June 28, 2006, Gomez-Pulido, who is represented by counsel in his criminal case, filed a pro se § 2241 petition. The District Court dismissed the petition without prejudice. Gomez-

Pulido filed a timely notice of appeal, and we have jurisdiction under 28 U.S.C. § 1291.

In his petition, Gomez-Pulido requested that the indictment against him be dismissed and he be released from custody. The District Court stated that Gomez-Pulido sought relief which was duplicative of motions pending in his criminal case or that could be filed in his criminal case. In his notice of appeal, Gomez-Pulido argues that the District Court should have converted the petition into a pretrial motion in his criminal case.¹ The District Court did not err in dismissing Gomez-Pulido's petition. The District Court was not required to act on Gomez-Pulido's pro se filings while he is represented by counsel. United States v. Essig, 10 F.3d 968, 973 (3d Cir. 1993).

Summary action is appropriate if there is no substantial question presented in the appeal. See Third Circuit LAR 27.4. For the above reasons, as well as those set forth by the District Court, we will summarily affirm the District Court's order. See Third Circuit I.O.P. 10.6.

¹ We note that according to the District Court's electronic docket, Gomez-Pulido entered a guilty plea on November 28, 2006.