

Dickerson v. United States CV-02-296-M 10/28/02
UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

Tyrone Dickerson,
Petitioner

v.

Civil No. 02-296-M
Opinion No. 2002 DNH 192

United States of America,
Respondent

O R D E R

Petitioner, Tyrone Dickerson, seeks habeas relief under 28 U.S.C. § 2255. He was convicted by a jury of possessing a controlled substance (crack cocaine) with the intent to distribute it, in violation of 21 U.S.C. § 841(a)(1). His conviction was affirmed on appeal. See United States v. Dickerson, No. 00-2500, slip op. (1st Cir. June 21, 2001).

In his petition, Dickerson argues that the jury did not necessarily convict him of possessing crack (as opposed to powder) cocaine, and that his counsel provided ineffective assistance in, essentially, failing to advocate for a guideline sentencing range based upon possession with intent to distribute powder rather than crack cocaine. The petition is without merit.

The jury convicted Dickerson of possessing crack cocaine with the intent to distribute it. The substance at issue was

positively identified by a testifying chemist (Mr. Hartman) as crack ("I determined it to be crack cocaine."), and all the evidence presented was more than sufficient to support the jury's verdict. See Id. Petitioner was properly sentenced based upon the allocable drug quantities, which resulted in a mandatory minimum sentence of 120 months in prison. Counsel hardly rendered ineffective assistance, since he made no errors that adversely affected any of petitioner's substantial rights and the representation provided fell well above the standard of reasonable effective assistance. See e.g., Gonzalez-Soberal v. United States, 244 F.3d 273, 277 (1st Cir. 2001) (citing Strickland v. Washington, 466 U.S. 668, 687 (1984)).

Because the motion and the files and the records of the case conclusively show that the petitioner is entitled to no relief, the petition is denied and the case dismissed.

SO ORDERED.

Steven J. McAuliffe
United States District Judge

October 28, 2002

cc: Tyrone Dickerson, pro se
Peter E. Papps, Esq.