

02-6683 CASTRO v. UNITED STATES

Ruling below: CA 11, 290 F.3d 1270.

QUESTION PRESENTED FOR REVIEW

When a United States District Court re-characterizes a pro-se federal prisoner's first post conviction motion as a habeas petition under 28 USC sec. 2255, does such re-characterization render the prisoner's subsequent attempt to file a first titled sec. 2255 petition a "second or successive petition" within the purview of the Antiterrorism and Effective Death Penalty Act (AEDPA)?

CERT. GRANTED: 1/27/03

In addition to the question presented by the petition, the parties are directed to brief and argue the following question:

Does this Court have jurisdiction to review the Eleventh Circuit's decision affirming the dismissal of a §2255 petition for writ of habeas corpus as second or successive?