

# United States Court of Appeals

## FOR THE EIGHTH CIRCUIT

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No. 96-2789

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Morris Lynn Johnson,

Appellant,

v.

United States of America,

Appellee.

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Appeal from the United States  
District Court for the  
District of Minnesota.

**[UNPUBLISHED]**

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Submitted: March 4, 1997

Filed: March 10, 1997

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Before McMILLIAN, FAGG, and LOKEN, Circuit Judges.

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PER CURIAM.

Morris Johnson appeals from the district court's<sup>1</sup> order dismissing without prejudice for lack of subject matter jurisdiction his motion to expunge or correct records of the Bureau of Prisons and the United States Parole Commission. Reviewing de novo, we conclude that Johnson's motion was properly construed as an attack on the execution of his sentence, and as such, is cognizable in a 28 U.S.C. § 2241 petition filed in a court with jurisdiction over Johnson's present custodian. See Bell v. United States, 48 F.3d 1042, 1043-44 (8th Cir. 1995); Schneider v. United

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The HONORABLE DAVID S. DOTY, United States District Judge for the District of Minnesota.

States, 27 F.3d 1327, 1331 (8th Cir. 1994) (standard of review),  
cert. denied, 115 S. Ct. 723 (1995). As Johnson is incarcerated in

Illinois, his petition was not properly filed in the District of Minnesota. Accordingly, we affirm.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.