

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 97-1995

Larry Miller,

Appellant,

v.

Susan Gerlinski, Warden,

Appellee.

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Appeal from the United States
District Court for the
District of South Dakota

[UNPUBLISHED]

Submitted: March 2, 1998
Filed: March 17, 1998

Before McMILLIAN, LOKEN, and MURPHY, Circuit Judges.

PER CURIAM.

Larry Miller appeals from a final order of the United States District Court for the District of South Dakota, denying Miller's 28 U.S.C. § 2241 petition for a writ of habeas corpus. In light of our recent decision in Martin v. Gerlinski, 133 F.3d 1076 (8th Cir. 1998), and for the reasons discussed therein, we reverse the judgment of the district court and remand the case to the district court with instructions to refer the case to the Bureau of Prisons to properly consider Miller's eligibility for a sentence reduction under 18 U.S.C. § 3621(e)(2)(B). We also deny Miller's motion for appointment of counsel. See 8th Cir. R. 47A(a).

A true copy.

Attest:

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