

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT
No. 09-14257
D.C. Docket No. 07-00129-CV-CDL**

ROBERT WAYNE HOLSEY,
Petitioner - Appellant,
v.
WARDEN, Georgia Diagnostic Prison,
Respondent - Appellee.

Appeal from the United States District Court
for the Middle District of Georgia

(September 13, 2012)

[concurring opinion in 104-page majority opinion]

Edmondson, Circuit Judge, concurring in the judgment: I—very respectfully—do not join in Judge Carnes’s erudite opinion. I stress that it is not because the opinion says something that I am sure is wrong or I am sure is even likely wrong. I agree with much of the opinion, at least. But the opinion says a lot and says more than I think is absolutely needed. In my experience, longish opinions always present a strong possibility of error lurking somewhere in the text. That the opinion writer is a skilled and careful judge does not eliminate the risk. Furthermore, no one wishes to join in an opinion that they do not understand fully. It is hard, time-consuming, painstaking work for the panel’s other judges to check long opinions, line by line, cited case by cited case. (Of course, always other cases are awaiting decision and also demand the judges’ time and attention.)¹ Moreover, long opinions, even if correct in every detail, generally make it harder for readers to separate a holding from dicta (or less than dicta: words only of explication and nothing more). The confusion of holding and dicta makes correctly deciding future cases more difficult, when judges are looking back for precedents. Sometimes, the oddest 2 bits are lifted out of opinions -- especially the longer ones (often words as to some peripheral point) -- and later quoted flatly as law: as if someone was quoting a statute. So, I feel more comfortable today just focusing briefly on my own view of a vital point. . .

¹ It seems to me that the incidence of long opinions has been on the rise in the last decade or, at least, more are coming across my desk. I should say that I, broadly speaking, do not agree that the length of an opinion necessarily reflects the thought, labor, and care that has been invested by judges in their endeavor to decide the case correctly. The shorter opinions often reflect the greater study and thought leading up to the ultimate decision. Mark Twain touched on a related idea: “If you want me to give you a two-hour presentation, I am ready today. If you want only a five-minute speech, it will take me two weeks to prepare.” Nevertheless, that some cases might truly demand long opinions, I do not doubt. And I believe I understand why Judge Carnes has gone longer in this case.