

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

December 27, 2007

Charles R. Fulbruge III
Clerk

No. 04-70034

BRENT RAY BREWER,

Petitioner-Appellee,

v.

NATHANIEL QUARTERMAN,
Director, Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent-Appellant.

Appeal from the United States District Court
for the Northern District of Texas

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before JOLLY, SMITH, and GARZA, Circuit Judges.

PER CURIAM:

This court reversed the district court's judgment conditionally granting a writ of habeas corpus. *Brewer v. Dretke*, 442 F.3d 273 (5th Cir. 2006) (reversing *Brewer v. Dretke*, 2004 U.S. Dist. LEXIS 14761 (N.D. Tex. Aug. 2, 2004)). The

Supreme Court reversed. *Brewer v. Quarterman*, 127 S. Ct. 1706 (2007).

The state acknowledges that in light of the denial of the petition for writ of certiorari in *Nelson v. Quarterman*, 472 F.3d 287 (5th Cir. 2006) (en banc), cert. denied, 127 S. Ct. 2974 (2007), this court should remand for re-entry of the conditional grant of habeas corpus relief. Accordingly, this matter is REMANDED so that the district court can re-enter its judgment to provide that a writ shall issue, vacating the sentence and commuting it to life imprisonment unless, within 180 days of the re-entry of judgment, the state grants a new sentencing hearing or commutes the sentence to life imprisonment.