

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

February 14, 2008

Charles R. Fulbruge III
Clerk

No. 06-30180
Summary Calendar

CLARENCE J TOLBERT

Petitioner-Appellant

v.

BURL CAIN, WARDEN, LOUISIANA STATE PENITENTIARY

Respondent-Appellee

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:04-CV-822

Before JOLLY, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Clarence J. Tolbert, Louisiana prisoner # 351590, appeals from the district court's denial of his application for habeas corpus relief pursuant to 28 U.S.C. § 2254. Tolbert challenges his conviction of attempted distribution of cocaine.

Tolbert contends that trial counsel, Keith Lewis, was ineffective for failing to pursue any pretrial motions. He contends that Lewis was ineffective for failing to conduct discovery, view the State's evidence, or obtain information from his previous attorney. He argues that Lewis was ineffective for failing to

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

meet with him before trial to discuss the case, and that Lewis's failure to meet with him is sufficient to demonstrate a constructive denial of counsel not requiring him to demonstrate prejudice, pursuant to *United States v. Cronic*, 466 U.S. 648, 659 (1984).

Tolbert has not shown the complete failure of counsel required to bring his case under the rule of *Cronic*. See *Bell v. Cone*, 535 U.S. 685, 697 (2002); *Gochicoa v. Johnson*, 238 F.3d 278, 285 (5th Cir. 2000). Tolbert does not argue that he received ineffective assistance of counsel under the test of *Strickland v. Washington*, 466 U.S. 668 (1984). Nor does he present arguments for any of counsel's alleged deficiencies other than not meeting with him. Because Tolbert is represented by counsel, his brief is not entitled to liberal construction. See *Beasley v. McCotter*, 798 F.2d 116, 118 (5th Cir. 1986). Tolbert has failed to brief those issues for appeal. See *Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

AFFIRMED.