

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-10942  
Summary Calendar

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JAMES EDWARD O'NEAL,

Petitioner-Appellant,

versus

GARY L. JOHNSON, Director,  
Texas Department of Criminal Justice,  
Institutional Division,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:95-CV-005-Y  
- - - - -

September 9, 1996

Before GARWOOD, JOLLY and DENNIS, Circuit Judges.

PER CURIAM:\*

Texas prisoner James Edward O'Neal, # 611087, appeals the district court's denial of his 28 U.S.C. § 2254 petition. O'Neal contends that his due process rights were violated when the trial court denied his motion to withdraw his guilty plea or appeal without holding a hearing, that counsel was ineffective for

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

failing to secure O'Neal's presence at such a hearing, and that the revocation of O'Neal's parole violated principles of double jeopardy. For the first time on appeal, O'Neal argues that the revocation of his parole violated the Ex Post Facto clause. We reject O'Neal's ex post facto argument as lacking factual basis. Having reviewed the record and O'Neal's brief, we AFFIRM the district court's denial of the petition for essentially the reasons adopted and set forth by the district court. O'Neal v. Scott, No. 4:95-CV-005-Y (N.D. Tex. Aug. 30, 1995).

AFFIRMED.