

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-30158
Summary Calendar

GEORGE PROBST,

Petitioner-Appellant,

versus

C. MARTIN LENSING, WARDEN

Respondent-Appellee.

Appeal from the United States District Court for the
Middle District of Louisiana
(94-2608-A)

September 5, 1996

Before HIGGINBOTHAM, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:*

George Probst, #304494, seeks relief, pursuant to 28 U.S.C. § 2254, from his conviction of forcible rape. His argument that there was insufficient evidence to support his conviction is nothing more than a challenge to the jury's credibility

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

determinations and the weight given to adverse evidence. These are factual matters to which the presumption of correctness of § 2254(d) applies, since Probst has failed to establish the applicability of any of the exceptions to the presumption. See 28 U.S.C. § 2254(d)(1) through (8); Knox v. Butler, 884 F.2d 849, 851 (5th Cir. 1989), cert. denied, 110 S.Ct. 1828 (1990). The district court did not err in denying relief on this claim.

Nor did the district court err in finding that the prosecutorial remarks during closing arguments did not violate Probst's due process rights. Even assuming a violation of Doyle v. Ohio, 426 U.S. 610 (1976), it was harmless error under the standard of review set forth in Brecht v. Abrahamson, 507 U.S. 619 (1993).

AFFIRMED.