

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-20172

LELAND BRADLEY FOUSE,

Plaintiff-Appellant,

versus

WAYNE SCOTT, Director,
Texas Department of Criminal
Justice, Institutional Division;
EARL FOX,

Defendants-Appellees.

Appeal from the United States District Court for the
Southern District of Texas
USDC No. H-94-CV-4216

July 20, 1998
ON PETITION FOR REHEARING

Before JOLLY and JONES, Circuit Judges.*

PER CURIAM:

IT IS ORDERED that the appellant's motion for reconsideration is construed as a petition for panel rehearing and is GRANTED.

Inasmuch as the appellant had seven months to depose his witness, the district court did not abuse its discretion in denying the appellant's motion to continue trial. See Dorsey v. Scott Wetzel Serv., Inc., 84 F.3d 170, 171 (5th Cir. 1996).

*This matter is being decided by a quorum pursuant to 28 U.S.C. § 46(d).

PETITION FOR REHEARING GRANTED; JUDGMENT AFFIRMED.