

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-40962  
Summary Calendar

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LEE DARWIN SONNIER,

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 Eastern District of Texas  
USDC No. 1:97-CV-227  
- - - - -

December 23, 1998

Before HIGGINBOTHAM, JONES, and DENNIS, Circuit Judges.`

PER CURIAM:\*

Lee Darwin Sonnier, #504386, seeks a certificate of appealability (COA) from the denial of his petition filed pursuant to 28 U.S.C. § 2254 as untimely. Sonnier argues that the district court erred in dismissing his claims as barred by the one-year statute of limitations set forth in 28 U.S.C. § 2244(d)(1). Because Sonnier is deemed to have filed his

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

§ 2254 petition on April 24, 1997, within one year of the effective date of the Antiterrorism and Effective Death Penalty Act (AEDPA), his petition was timely. See United States v. Flores, 135 F.3d 1000, 1005-06 (5th Cir. 1998); Flanagan v. Johnson, 154 F.3d 196, 199-202 (5th Cir. 1998). COA is GRANTED, the district court's judgment dismissing Sonnier's § 2254 petition as time-barred is VACATED, and the case is REMANDED for further proceedings.

COA GRANTED; VACATED AND REMANDED.