

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-30239  
Summary Calendar

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DONALD SYLVAS,

Petitioner-Appellant,

versus

BURL CAIN, Warden,  
Louisiana State Penitentiary,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 97-CV-1392-LLM  
- - - - -

January 13, 1999

Before KING, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:\*

The district court granted Donald Sylvas, Texas state prisoner # 106762, a certificate of appealability (COA) from the denial of his 28 U.S.C. § 2254 petition. The district court did not specify the issue or issues upon which Sylvas made a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(3).

A habeas petitioner whose claims otherwise would be time-barred because the limitations period would have expired before

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the effective date of the AEDPA had until April 24, 1997, to file his habeas petition. Flanagan v. Johnson, 154 F.3d 196, 200-02 (5th Cir. 1998); United States v. Flores, 135 F.3d 1000, 1004-07 (5th Cir. 1998) (28 U.S.C. § 2255 case). The district court's judgment denying Sylvas' habeas petition and order granting COA are VACATED and the case is remanded for further consideration in light of Flanagan.

VACATED AND REMANDED.