

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-20998
Conference Calendar

MICHAEL JOE SUTTON,

Petitioner-Appellant,

versus

GARY L. JOHNSON, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
INSTITUTIONAL DIVISION,

Respondent-Appellee.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-98-CV-3128
- - - - -

October 18, 2000

Before SMITH, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Michael Joe Sutton, Texas prisoner # 459428, appeals the district court's denial of his 28 U.S.C. § 2254 application. A certificate of appealability (COA) was previously granted. The respondent has filed a motion to dismiss the appeal as moot and a motion to supplement the record with a copy of Sutton's certificate of mandatory supervision showing that Sutton was released to mandatory supervision on August 9, 2000. The respondent's arguments are meritorious. Sutton has not shown an

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

injury-in-fact, and his habeas claims are moot due to his release to mandatory supervision. Spencer v. Kemna, 523 U.S. 1, 7 (1998); see Ex parte Hallmark, 883 S.W.2d 672, 674 (Tex. Crim. App. 1994) (good-time credits apply only to an inmate's eligibility for parole or mandatory supervision and do not affect the length of the inmate's sentence). Further, revocation of Sutton's mandatory supervision would not result in the restoration of his good-time credits. See Hallmark v. Johnson, 118 F.3d 1073, 1075-76 (5th Cir. 1997). The respondent's motions are GRANTED, and this APPEAL IS DISMISSED AS MOOT.