

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

February 15, 2008

No. 01-10646

Charles R. Fulbruge III
Clerk

TED CALVIN COLE,
now known as Jalil Abdul-Kabir,

Petitioner-Appellant,

versus

DOUG DRETKE, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
(6:00-CV-014)

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before HIGGINBOTHAM, WIENER, and BARKSDALE, Circuit Judges.

PER CURIAM:*

This case returns to us on remand from the Supreme Court sub nom Jalil Abdul-Kabir, fka Ted Calvin Cole, Petitioner v. Nathaniel Quarterman, Director, Texas Department of Criminal Justice, Correctional Institutions Division,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

following the Court's grant of a Writ of Certiorari to consider our affirmance of the district court's denial of habeas relief. The Supreme Court reversed our judgment and remanded this case to us for further proceedings consistent with the opinion of the Court. Accordingly, we remand this case to the District Court for Northern District of Texas from whence it came, with instructions to grant habeas corpus relief to the Petitioner by reversing and vacating the sentence of death by lethal injection imposed and affirmed by the courts of the State of Texas and remanding this case to those courts with instruction to the State of Texas either to conduct a new punishment-phase trial within one hundred eighty (180) days following the federal district court's remand or, in lieu thereof, to impose the appropriate prison sentence in light of the date on which the Petitioner committed his crime of conviction.

REVERSED and REMANDED with instructions.