

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-20910
Summary Calendar

WARREN PIERRE CANADY,

Petitioner-Appellant,

versus

JANIE COCKRELL, 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-1947
- - - - -

October 17, 2002

Before HIGGINBOTHAM, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

Warren Pierre Canady appeals the district court's denial as procedurally barred of the speedy-trial claim presented in his 28 U.S.C. § 2254 petition. The district court erred in finding that the claim had not been presented to the state courts. According to the Texas Court of Criminal Appeals, in a response to our certified questions filed after the ruling of the district court, the claim was presented to and considered by that court in

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

a state habeas application. Thus, it was not procedurally barred. Although the district court gave an alternative holding that the speedy trial claim lacked merit, the basis in the record must be clarified before that conclusion may be considered by this court. Accordingly, the portion of the district court's order denying Canady's speedy-trial claim is VACATED, and this case is hereby REMANDED for the district court to elaborate on its reasons for concluding the claim lacks merit.

Canady's motion to expedite his appeal is hereby DENIED.