

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-20962
Summary Calendar

ERIC WALLACE KOEHL,

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-00-CV-3704

June 6, 2002

Before DeMoss, PARKER, and DENNIS, Circuit Judges.

PER CURIAM:*

Eric Wallace Koehl, Texas prisoner # 661873, appeals following the dismissal of his application for a writ of habeas corpus under 28 U.S.C. § 2254 for failure to exhaust state remedies and the grant of a certificate of appealability by the district court. The respondent concedes that, by virtue of a decision by the Texas Court of Criminal Appeals, Koehl exhausted the claims presented in his state application for a writ of habeas corpus during the pendency of proceedings in the district

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court. Koehl was therefore entitled to consideration of his 28 U.S.C. § 2254 application insofar as it presented exhausted claims. See Bufalino v. Reno, 613 F.2d 568, 571 (5th Cir. 1980). Accordingly, we VACATE the judgment of the district court and REMAND for further proceedings.

Koehl has filed a motion seeking federal protection based on an alleged deprivation of food, and in his reply brief Koehl requested federal protection following an alleged beating by a prison officer. A prisoner may not seek redress for allegedly unconstitutional "conditions of confinement" in a habeas corpus proceeding. See Cook v. Texas Dep't. of Criminal Justice Transitional Planning Dept., 37 F.3d 166, 168 (5th Cir. 1994). The motion is DENIED. To the extent that Koehl seeks appointment of counsel, a change of venue, and unconditional release by way of his reply brief, his requests are hereby DENIED.

VACATED AND REMANDED; MOTION DENIED.