

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

JUL 19 2002

Charles R. Fulbruge
Clerk

No. 02-30070

Summary Calendar

RYAN RICHARD,

Petitioner-Appellant,

versus

BARON KAYLO, Warden,

Respondent-Appellee.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 01-CV-2294-H
- - - - -

Before DeMOSS, PARKER and DENNIS, Circuit Judges.

PER CURIAM:*

Ryan Richard, Louisiana prisoner # 353246, appeals the district court's dismissal of his 28 U.S.C. § 2254 petition for habeas relief. Richard argues that 1) his guilty plea was not knowingly and intelligently made because the trial court failed to inform him of the nature of, and elements comprising, the manslaughter offense, and 2) he received ineffective assistance

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

of counsel because his attorney failed to advise him of the nature and elements of manslaughter.

Richard has filed a letter with this court, which we construe as a motion seeking reconsideration of the clerk's office's determination that Richard's reply brief was untimely filed. Because the Appellee has not filed a response opposing Richard's request, and in the interest of affording Richard every advantage in this *pro se* appeal, his motion is GRANTED.

We have reviewed the record and the briefs submitted by the parties and hold that Richard fails to meet his burden of establishing that the state court's adjudication of his claims resulted in a decision that was contrary to Federal law, or was based on an unreasonable determination of the facts in light of the evidence presented in the state court proceedings. See 28 U.S.C. § 2254(d); Boykin v. Alabama, 395 U.S. 238, 244 (1969); Henderson v. Morgan, 426 U.S. 637, 646-47 (1976); Strickland v. Washington, 466 U.S. 668, 687 (1984); Bonvillain v. Blackburn, 780 F.2d 1248, 1251 (5th Cir. 1986). Accordingly, we affirm.

AFFIRMED.