

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 02-40274
Summary Calendar

PHILLIP NORRIS TURMAN,

Appellant,

Petitioner-

versus

JANIE COCKRELL, DIRECTOR, TEXAS DEPARTMENT OF
CRIMINAL JUSTICE, INSTITUTIONAL DIVISION,

Appellee.

Respondent-

Appeal from the United States District Court
for the Southern District of Texas
USDC No. G-00-CV-655

October 23, 2002

Before JONES, STEWART and DENNIS, Circuit Judges.

PER CURIAM:*

The district court granted Phillip Norris Turman (TDCJ # 713626) a certificate of appealability (COA) to appeal the dismissal of his 28 U.S.C. § 2254 petition as untimely under 28 U.S.C. § 2244(d). In the petition, Turman sought to challenge his 1995 state-court conviction and 99-year

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

sentence for possession with the intent to deliver cocaine. We GRANT Turman leave to proceed in forma pauperis (IFP) on appeal and proceed to the merits of the appeal. See Carson v. Polley, 689 F.2d 562, 586 (5th Cir. 1982).

Although Turman notes that the district court dismissed his petition as time-barred under 28 U.S.C. § 2244(d), he fails to challenge the district court's determination that the petition was untimely. Accordingly, he has abandoned the only issue presented in this appeal. See Hughes v. Johnson, 191 F.3d 607, 613 (5th Cir. 1999). However, even were we to address the issue, Turman has not shown that the district court abused its discretion in denying equitable tolling. See Fierro v. Cockrell, 294 F.3d 674, 679 (5th Cir. 2002); compare Phillips v. Donnelly, 216 F.3d 508, 511 (5th Cir. 2000), reh'g granted in part, 223 F.3d 797 (5th Cir. 2000).

AFFIRMED.