

July 16, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-60875
Summary Calendar

JEROME MAURICE WALL,

Petitioner-Appellant,

versus

WALTER BOOKER, Superintendent of Mississippi
State Penitentiary; CHRISTOPHER B. EPPS,
Commissioner, Mississippi Department of
Corrections,

Respondents-Appellees.

Appeals from the United States District Court
for the Northern District of Mississippi
USDC No. 2:00-CV-16-P-A

Before JOLLY, JONES and CLEMENT, Circuit Judges.

PER CURIAM:*

Jerome Maurice Wall appeals the district court's denial of his 28 U.S.C. § 2254 petition. A certificate of appealability was granted for the issue of whether the imposition of Mississippi's habitual offender statute was proper where Wall's service of one prior sentence was interrupted by an interstate transfer between jails. Wall contends that the evidence was

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

insufficient to sentence him under the habitual offender statute and that his counsel ineffectively failed to challenge the imposition. Wall also asserts that the district court erroneously failed to hold an evidentiary hearing.

This court must defer to the determination implicit in the denial of state habeas corpus relief that the interruption did not vitiate the service of the sentence under state law. See Young v. Dretke, 356 F.3d 616, 628 (5th Cir. 2004). That legal determination is dispositive of all of Wall's constitutional claims. Therefore, there was no factual dispute necessitating an evidentiary hearing. See Ward v. Whitley, 21 F.3d 1355, 1367 (5th Cir. 1994).

AFFIRMED.