

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit
FILED

June 24, 2005

No. 04-70029

Charles R. Fulbruge III
Clerk

JUSTIN WILEY DICKENS,

Petitioner - Appellant

v.

DOUG DRETKE, DIRECTOR, TEXAS
DEPARTMENT OF CRIMINAL JUSTICE,
INSTITUTIONAL DIVISION,

Respondent - Appellee

Appeal from the United States District Court for the
Northern District of Texas
(2:00-CV-0110-J)

Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Petitioner-Appellant Justin Wiley Dickens seeks a certificate of appealability ("COA") on three issues that the district court deemed unworthy of collateral review. Dickens seeks a COA from this Court on three claims, all of which challenge his death sentence. Dickens first argues that the evidence at the punishment phase of trial was legally insufficient to prove beyond a reasonable doubt that he would

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

commit criminal acts of violence in the future so as to constitute a continuing threat to society. Dickens also argues that his state trial, appeal, and habeas counsel were ineffective because they failed to invoke the International Covenant on Civil and Political Rights, an international treaty ratified by the United States Senate which prohibits the execution of offenders for crimes committed when the offender was under the age of 18.

In light of the United States Supreme Court's recent decision in Roper v. Simmons,¹ Texas Governor Rick Perry has commuted Dickens's death sentence to life imprisonment. As Dickens petition for a COA challenges only his death sentence, and not his underlying conviction, his petition is now moot because Governor Perry has granted him the relief that he requested.

PETITION DISMISSED.

¹ — U.S. —, 125 S. Ct. 1183 (2005).