

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit
FILED

July 18, 2005

Charles R. Fulbruge III
Clerk

No. 04-70037

RAYMOND LEVI COBB,

Petitioner - Appellant

v.

DOUG DRETKE, DIRECTOR, TEXAS
DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION,

Respondent - Appellee

Appeal from the United States District Court for the
Southern District of Texas- Houston Division
(H:04-CV-0696)

Before DAVIS, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:*

Petitioner-Appellant Raymond Levi Cobb seeks a certificate of appealability ("COA") on two issues that the district court deemed unworthy of appellate review. Cobb seeks a COA from this Court on two related claims, both of which challenge his death sentence. Cobb's arguments spring from the testimony of an expert witness called by the government in the punishment phase of the trial to testify about the probability that Cobb 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 that would constitute a continuing threat to society. Cobb alleges that this witness falsified his credentials and perjured himself when explaining them to the jury. We are inclined to believe that, at most, a simple transcription error occurred, however, we need not decide the issue.

In light of the United States Supreme Court's recent decision in Roper v. Simmons,¹ Texas Governor Rick Perry has commuted Cobb's death sentence to life imprisonment. As Cobb's 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).