

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

November 20, 2007

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No. 07-10444  
Summary Calendar

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Charles R. Fulbruge III  
Clerk

MICHAEL WAYNE HARKNESS

Petitioner-Appellant

v.

NATHANIEL QUARTERMAN, DIRECTOR, TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:06-CV-215

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Before KING, DAVIS, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Michael Wayne Harkness, former Texas prisoner # 1235550, pleaded guilty to felony driving while intoxicated and was sentenced to four years of imprisonment. Harkness now seeks a certificate of appealability (COA) to appeal the district court's denial of his 28 U.S.C. § 2254 petition challenging the denial of mandatory supervision.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

During the pendency of this appeal, Harkness was released from prison to mandatory supervision. As a result, Harkness's due process claim challenging the denial of § 2254 petition has been rendered moot. See *Spencer v. Kemna*, 523 U.S. 1, 7 (1998); *Bailey v. Southerland*, 821 F.2d 277, 278-79 (5th Cir. 1987). Accordingly, this appeal is dismissed as moot.

APPEAL DISMISSED; COA MOTION DENIED.