

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 91-9561  
Conference Calendar

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HAROLD HEBERT, JR.,

Petitioner-Appellant,

versus

JOHN P. WHITLEY ET AL.,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. CA-91-0638"J"  
- - - - -

March 17, 1993

Before KING, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:\*

The district court based its determination that Hebert understood the nature of the charge to which he pleaded guilty on findings of fact made by the magistrate judge after an evidentiary hearing. The magistrate judge determined that the petitioner was not a credible witness during the hearing and that he understood the nature of the charge to which he pleaded guilty. These findings are binding on the appellate court unless they are clearly erroneous. Fed. R. Civ. P. 52(a). See Williams v. Procnier, 735 F.2d 875, 878 (5th Cir. 1984). "If there is

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

evidence to support [the factual findings], [the Court] may hold findings clearly erroneous only when we are left with the definite and firm conviction, after reviewing the entire record, that a mistake has been committed." Id.

A review of the record indicates that Hebert was aware of the charge to which he pleaded guilty. The district court's factual findings are not clearly erroneous. Hebert did not demonstrate that he is entitled to habeas relief. See Hayes v. Maggio, 699 F.2d 198, 200 (5th Cir. 1983). Accordingly, the district court's denial of habeas relief is not error; therefore, the denial of habeas relief is AFFIRMED.