

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-5059  
Summary Calendar

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FREDDIE LEE WALKER,

Plaintiff-Appellant,

v.

WARDEN LOUISIANA STATE PENITENTIARY,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Western District of Louisiana  
(90-CV-2096)

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(March 11, 1994)

Before DAVIS, JONES, and DUHÉ, Circuit Judges.\*

PER CURIAM:

Appellant Walker, now serving a term of 30 years at hard labor for armed robbery in Louisiana, appeals the denial of habeas relief. In the trial court, he asserted that he was deprived of effective assistance of counsel because of a number of alleged errors committed by his trial attorney; and that he was prejudiced because two jurors saw a docket sheet that reflected his charges for other crimes; and that he was prejudiced by a witness's

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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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

statement that he was an escapee from jail. Finding no reversible error, we affirm.

For the most part, we agree with the analysis and recommendation of the magistrate judge, which was adopted by the district judge after a de novo review of the record. Only one issue needs further comment. Walker asserts that certain allegations of ineffectiveness of counsel, which he raised in a second state habeas petition filed four years after the first such petition, were not, contrary to the finding of the Louisiana courts, procedurally barred. He reasoned that the Louisiana trial court erroneously found his allegations "repetitive" of prior ineffectiveness claims and failed to abide by La. Code Crim Pro. Art. 930.4(F), which required the court to provide Walker an opportunity to explain the reasons he failed to raise his issues in the prior petition. Walker raised these complaints to the Louisiana Supreme Court, however, and that court denied relief "on the showing made." It is not for this court to second-guess the application of Louisiana law by Louisiana state courts. We must presume that the Louisiana Supreme Court's decision rejecting Walker's claim did not silently disregard the bar and consider the merits; under Supreme Court precedent, this finding of procedural bar is conclusive. Ylst v. Nunnemaker, \_\_\_\_ U.S. \_\_\_\_, 111 S. Ct. 2590 (1991).

This court could theoretically consider Walker's procedurally barred claims on the merits if he also established cause and prejudice. McClesky v. Zant, \_\_\_\_ U.S. \_\_\_\_, 111 S. Ct.

1454, 1470 (1991). Walker has never attempted to meet this difficult standard.

Accordingly, the judgment of the district court is **AFFIRMED.**