

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-7636  
Conference Calendar

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JAMES MHOON,

Petitioner-Appellant,

versus

EDWARD HARGETT, Superintendent,  
Mississippi State Penitentiary,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Northern District of Mississippi  
USDC No. CA-1"91-193-D-D  
- - - - -

May 7, 1993

Before REAVLEY, KING, and DAVIS, Circuit Judges.

PER CURIAM:\*

Mhoon filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in federal court asserting that the trial court could not have imposed a life sentence without a recommendation from the jury and that a life sentence without benefit of parole was improper under the recidivist statute for a defendant with prior convictions for only non-violent offenses. See McLamb v. State, 456 So.2d 743 (Miss. 1984); Davis v. State, 477 So.2d 223

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

(Miss. 1985). In his objections to the magistrate judge's recommendation, Mhoon also asserted that the sentence was cruel and unusual punishment under the proportionality analysis outlined in Solem v. Helm, 463 U.S. 277, 291, 103 S.Ct. 3001, 77 L.Ed.2d 637 (1983).

On appeal, Mhoon has abandoned the Solem issue and limits his arguments to the alleged incorrect application of Mississippi law. Such claims are not cognizable in a federal habeas proceedings unless the sentence imposed on Mhoon was "outside the statutory limits, . . . wholly unauthorized by law[,] . . . or amounted to an 'arbitrary or capricious abuse of discretion.'" Haynes v. Butler, 825 F.2d 921, 924 (5th Cir. 1987) (citations omitted), cert. denied, 484 U.S. 1014 (1988). Mhoon has made no such showing. To grant Mhoon's request for habeas relief would require a finding that Mississippi's highest court incorrectly interpreted and applied its own sentencing laws and, as this Court has repeatedly stated, "[w]e do not sit as a `super' state Supreme Court in such a proceeding to review errors under state law." Dickerson v. Guste, 932 F.2d 1142, 1145 (5th Cir.), cert. denied, 112 S.Ct. 214 (1991) (internal quotations and citations omitted).

AFFIRMED.