

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-8433
Conference Calendar

JACKIE DORN,

Plaintiff-Appellant,

versus

JAMES A. COLLINS, Director,
Texas Department of Criminal Just.,
Institutional Div., Et al.,

Respondents-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. MO-92-CV-86
- - - - -

August 18, 1993

Before JOLLY, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:*

Jackie Dorn appeals the dismissal, without prejudice, of his petition for a writ of habeas corpus. A habeas petition must "specify all the grounds for relief which are available to the petitioner and of which he has or by the exercise of reasonable diligence should have knowledge and shall set forth in summary form the facts supporting each of the grounds thus specified."

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Rule 2(c) of the Rules Governing Section 2254 Cases. "An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State. . . ." 28 U.S.C. § 2254(b).

While Dorn listed four legal issues in his habeas petition, he made no attempt to support those issues with facts. Furthermore, Dorn did not allege whether the Texas Court of Criminal Appeals had an opportunity to rule on the issues raised in the federal habeas petition. See Dispensa v. Lynaugh, 847 F.2d 211, 217 (5th Cir. 1988). The district court properly dismissed the petition without prejudice because it was not able to determine whether the issues Dorn raised in his state habeas petition were the same as those raised in the present federal habeas petition. If Dorn chooses to refile his federal habeas petition, he is cautioned to follow the Rules Governing Section 2254 Cases, and to supply the facts necessary to enable the district court to determine whether he has exhausted his state remedies with regard to those issues he presents in his federal petition.

AFFIRMED.