

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-8562
Conference Calendar

MACK JONES, JR.,

Plaintiff-Appellant,

versus

JAMES A. COLLINS, Director,
Texas Department of Corrections,
Institutional Division,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. MO-92-CV-168
- - - - -

(May 18, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Mack Jones, Jr., filed the instant 28 U.S.C. § 2254 federal habeas corpus petition arguing that his conviction was based upon evidence obtained through an unconstitutional search and seizure and that his conviction was invalid because his arrest was unlawful. If the defendant is afforded an opportunity by the State to fully and fairly litigate a Fourth Amendment claim, federal habeas corpus review of that claim is precluded. Stone

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

v. Powell, 428 U.S. 465, 482, 96 S.Ct. 3037, 49 L.Ed.2d 1067 (1976). Caver v. State, 577 F.2d 1188, 1192 (5th Cir. 1978).

Jones was afforded a full and fair opportunity by the state to present his Fourth Amendment claims. He filed a pre-trial motion to suppress evidence based upon an unconstitutional search and an unlawful arrest. This motion was denied by the trial court. These arguments were also rejected on direct appeal and in Jones' third application for state habeas relief.

Jones also presents numerous additional arguments in his appellate brief, but none of these were presented to the district court in his original petition. As such, they are not considered on appeal. Fransaw v. Lynaugh, 810 F.2d 518, 523 (5th Cir.), cert. denied, 483 U.S. 1008 (1987).

Finally, Jones' brief contains a motion seeking to compel the Attorney General of Texas to respond to his petition. The Attorney General, however, has filed a letter brief with this Court. In it, the Assistant Attorney General responding to Jones' petition stated that a copy of the State's response had been forwarded to Jones at the same address as the one on Jones' appellate brief. This Court need take no further action. The judgment of the district court is AFFIRMED.