

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-20672

JESSIE GUTIERREZ,

Petitioner-Appellant,

versus

WAYNE SCOTT, Director, Texas
Department of Criminal Justice,
Institutional Division,

Respondent-Appellee

Appeal from the United States District Court
for the Southern District of Texas
(H-94-2923)

(September 15, 1994)

Before JOLLY, SMITH and WIENER, Circuit Judges.

PER CURIAM:*

Petitioner-Appellant Jessie Gutierrez, a prisoner in the Institutional Division of the Department of Criminal Justice, scheduled to be executed by lethal injection on September 16, 1994,

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

appearing through counsel of record, seeks a certificate of probable cause (CPC) to appeal the district court's denials of petitioner's applications for writ of habeas corpus, stay of execution and grant of an evidentiary hearing, and denial of CPC. For some time now this panel has monitored the progress of this case in the state judicial system and in federal district court, and has studied the filings therein including, most recently, petitioner's federal application for writ of habeas corpus; the district court's orders denying the writ, denying the request for evidentiary hearing on the necessity for expert and investigative services, denying such services, denying CPC and stay of execution, and granting respondent's motion for summary judgment; petitioner's motion to alter or amend that order; and the district court's denial of petitioner's motion to alter or amend. Additionally, we have now carefully reviewed petitioner's application to this court for CPC and a stay of his execution to allow petitioner to appeal the district court's rulings and eventually to obtain habeas relief.

We are singularly impressed with the thoroughness and accuracy of the district court's analysis of all aspects of this matter and that court's disposition of the case. Concluding as well that petitioner has failed to make a substantial showing of the denial of a federal right, we deny CPC and stay of execution, and dismiss petitioner's application.