

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-20742
Conference Calendar

CLIFFORD WEST,

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
USDC No. CA-H-93-3900
- - - - -

June 28, 1995

Before JONES, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Clifford West alleges that he received ineffective assistance of state appellate counsel because said counsel failed to assert an insufficiency-of-the-evidence challenge on direct appeal. West's trial counsel specifically moved "for directed verdict . . . [based on] insufficient evidence," at the close of all the evidence. Thus, the issue was preserved for Texas appellate purposes, as the respondent concedes.

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

Accordingly, we VACATE and REMAND to allow the district court to consider West's ineffective-assistance-of-appellate-counsel issue.

VACATED and REMANDED.