

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60640
Conference Calendar

JOHNNY SHERIFF,

Petitioner-Appellant,

versus

EDWARD M. HARGETT, Superintendent,
Mississippi State Penitentiary,

Respondent-Appellee.

- - - - -
Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:94CV290WS
- - - - -

(October 18, 1995)

Before POLITZ, Chief Judge, and REAVLEY and SMITH, Circuit Judges.

PER CURIAM:*

Johnny Sheriff filed a petition for writ of habeas corpus under 28 U.S.C. § 2254 challenging his Mississippi conviction for selling cocaine. The district court dismissed the petition because Sheriff had not exhausted his state remedies. Sheriff moved this court to stay this appeal pending another post-conviction proceeding now pending in state court.

Generally, a state prisoner must exhaust available state remedies before he may seek federal habeas relief. See 28 U.S.C.

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

§ 2254(b). Exhaustion normally requires that the petitioner present his federal claims to the state's highest court in accordance with state procedural rules. Deters v. Collins, 985 F.2d 789, 795 (5th Cir. 1993).

We are informed that the Mississippi Supreme Court has ruled on Sheriff's appeal in less than its average period from appeal to judgment. Sheriff now moves to stay his appeal here pending another post-conviction motion pending in the Mississippi courts. His dismissal was without prejudice to a subsequent petition after exhaustion of all of his claims in state court.

AFFIRMED, MOTION DENIED.