

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-30525  
Conference Calendar

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JAMES BOLTON,

Petitioner-Appellant,

versus

BURL CAIN, Acting Warden; RICHARD P. IEYOUB,  
Attorney General, State of Louisiana,

Respondents-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 95-CV-531

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February 29, 1996

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

PER CURIAM:\*

Appellant James Bolton challenges the denial of his second petition for a writ of habeas corpus. The district court dismissed the petition after Bolton failed to file a timely response to the court's direction that he complete a form explaining why his petition should not be dismissed as an abuse of the writ, pursuant to Rule 9(b) of the Rules Governing 28 U.S.C. § 2254 Proceedings. On appeal, Bolton addresses only the merits of his substantive claims but does not address the Rule

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

9(b) issue, which he thereby abandons. Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993). Because no challenge to the Rule 9(b) grounds is before us, we may not reach the merits. See Foret v. Whitley, 965 F.2d 18, 20 (5th Cir. 1992). The appeal is frivolous and is dismissed as such. See 5th Cir. R. 42.2.

APPEAL DISMISSED.