

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-30893
Conference Calendar

GERARD DAVE,

Petitioner-Appellant,

versus

RICHARD L. STALDER, Warden;
ATTORNEY GENERAL STATE OF LOUISIANA,

Respondents-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 95-CV-752
- - - - -

June 25, 1996

Before HIGGINBOTHAM, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Gerard Dave, Louisiana prisoner no. 92346, appeals the dismissal of his habeas corpus petition as an abuse of the writ. Dave contends that he showed cause for his failure to raise his defective-jury-instruction contention in his previous habeas petitions because *Cage v. Louisiana*, 498 U.S. 39 (1990), on which he relies, was not decided until 1990, after he filed his

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

previous petitions. We have reviewed the record and find no reversible error. Accordingly, we affirm essentially for the reasons stated by the district court. See *Dave v. Stalder*, No. 95-0752 (E.D. La. Aug. 18, 1995).

AFFIRMED.