

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 95-40341  
Summary Calendar

---

FRANKIE DON HUIE,

Petitioner-Appellant,

versus

GARY L. JOHNSON, Director,  
Texas Department of Criminal Justice,  
Institutional Division,

Respondent-Appellee.

- - - - -  
Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 3:94-CV-49  
- - - - -

October 22, 1996

Before JONES, DeMOSS and PARKER, Circuit Judges.

PER CURIAM:\*

Texas prisoner Frankie Don Huie, # 335113, appeals the district court's denial of his 28 U.S.C. § 2254 petition. Huie argues that his trial attorney was ineffective for failing to object to testimony concerning an extraneous offense or request a limiting instruction, attack the credibility of a prosecution

---

\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

witness, and conduct an adequate pre-trial investigation and that counsel's cumulative trial errors caused Huie's trial to be fundamentally unfair. Having reviewed the record, we conclude that Huie has failed to show ineffective assistance of counsel. Lockhart v. Fretwell, 506 U.S. 364, 372 (1993).

For the first time on appeal, Huie argues that counsel failed to interview his neighbors, call several witnesses, hire a firearms expert, argue to the jury that Huie's son mistakenly left the murder weapon loaded, or file an appeal after contracting to do so. Huie further implies that the State withheld exculpatory evidence in violation of Brady v. Maryland, 373 U.S. 83, 87 (1963). He has not shown that these issues meet the standard for plain error. See Highlands Ins. v. National Union Fire Ins., 27 F.3d 1027, 1031-32 (5th Cir. 1994), cert. denied, 115 S. Ct. 903 (1995).

Huie's motion for appointed counsel is DENIED, and the dismissal of his § 2254 petition is AFFIRMED.