

**UNITED STATES COURT OF APPEALS**  
**FOR THE FIFTH CIRCUIT**

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No. 95-50636  
Summary Calendar

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MANUEL SERJIO BANUELOS AMAYA,

Petitioner-Appellant,

versus

GARY L. JOHNSON, DIRECTOR, TEXAS  
DEPARTMENT OF CRIMINAL JUSTICE,  
INSTITUTIONAL DIVISION,

Respondent-Appellee.

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Appeal from the United States District Court  
For the Western District of Texas  
(EP-91-CV-262)

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August 6, 1996

Before POLITZ, Chief Judge, JOLLY and BARKSDALE, Circuit Judges.

PER CURIAM:\*

Manuel Serjio Banuelos Amaya, a Texas state prisoner, appeals the dismissal of his petition for habeas corpus relief from his convictions and sentence for

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

aggravated assault. We affirm.

Amaya claims: (1) defective indictments; (2) perjury by state witnesses; (3) ineffective assistance of counsel; (4) improper increase of sentence after his first sentence was set aside; and (5) error in the district court's denial of his request for an evidentiary hearing. Our review of the briefs and record persuades us that these claims lack merit. We therefore affirm for substantially the reasons assigned by the district court.<sup>1</sup>

Amaya also claims on appeal relief for: (1) ineffective counsel relating to a note the jury sent to the trial court and for failing to challenge venirepersons for cause; (2) an unfair evidentiary hearing in state court; and (3) denial of conflict-free trial counsel. Amaya raises these claims for the first time on appeal. We decline to consider same because we find no plain error.<sup>2</sup>

Finally, Amaya's motion for leave to file a supplement to his supplemental brief is DENIED.

The judgment appealed is AFFIRMED.

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<sup>1</sup>**Amaya v. Scott**, No. EP-91-CV-262 (W.D.Tex. Aug. 11, 1995).

<sup>2</sup>**Robertson v. Plano City of Texas**, 70 F.3d 21 (5th Cir. 1995).