

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-10475  
Summary Calendar

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KENNETH RAY BUMPASS,

Petitioner-Appellant,

versus

GARY L. JOHNSON, DIRECTOR, TEXAS DEP'T OF  
CRIMINAL JUSTICE, INSTITUTIONAL DIVISION,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:95-CV-211-Y  
- - - - -

November 5, 1996

Before DAVIS, EMILIO M. GARZA and STEWART, Circuit Judges.

PER CURIAM:\*

Texas prisoner Kenneth Ray Bumpass, #378073, appeals the denial of his habeas corpus petition as an abuse of the writ. Bumpass contends that he could not have brought his substantive contentions in his first habeas petition because he received ineffective assistance of counsel on that petition and because he did not understand the law then. Bumpass also contends that he

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

is innocent because his indictment was defective.

We have reviewed the record and the briefs of the parties and we find no reversible error. Accordingly, we affirm the district court's holding that Bumpass has failed to show cause for failing to raise his contentions in his first habeas petition for essentially the reasons relied on by the district court. See *Bumpass v. Scott*, No. 4-95-CV-211-Y (N.D. Tex. Feb. 9, 1996). Bumpass raises his actual-innocence contention for the first time on appeal. Bumpass has failed to demonstrate plain error, see *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428 (5th Cir.)(en banc); he has not shown that he did not commit the acts that led to his conviction. See *Ward v. Cain*, 53 F.3d 106, 108 (5th Cir. 1995).

AFFIRMED.