

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-10080  
Summary Calendar

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TOMMY LEE DORA,

Petitioner-Appellant,

versus

GARY JOHNSON, DIRECTOR, TEXAS  
DEPARTMENT 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. 3:96-CV-1664-T

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August 20, 1998

Before DAVIS, DUHÉ and PARKER, Circuit Judges.

PER CURIAM:<sup>1</sup>

Tommy Lee Dora, Texas prisoner # 224582, appeals following the dismissal of his case under 28 U.S.C. § 2244 of the AEDPA.<sup>2</sup> Because Dora's federal habeas petition was filed prior to the enactment of the AEDPA, the district court erred by applying the AEDPA to Dora's suit. *See Lindh v. Murphy*, 117 S. Ct. 2059, 2068 (1997), *cert. denied*, 118 S. Ct. 739 (1998)(an intervening

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<sup>1</sup> Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

<sup>2</sup> Antiterrorism and Effective Death Penalty Act of 1996.

decision; the AEDPA does not apply to noncapital cases that were pending on the date of its enactment).

The judgment of the district court dismissing the habeas corpus petition under the AEDPA is VACATED and the action is REMANDED for further consideration under pre-AEDPA standards.