

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-10529  
Summary Calendar

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RONALD LYNN GRANING,

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 Northern District of Texas  
USDC No. 3:95-CV-1592-X  
- - - - -

October 9, 1998

Before HIGGINBOTHAM, JONES, and DENNIS, Circuit Judges.

PER CURIAM:\*

Ronald Lynn Graning, Texas state prisoner #662690, appeals the district court's denial of his petition for writ of habeas corpus, 28 U.S.C. § 2254, in which he challenged the sufficiency of the evidence to establish that the victim suffered serious bodily injury and the effectiveness of trial counsel.

Because Graning filed his § 2254 petition in August 1995, the district court erred in applying the standards set forth in the Antiterrorism and Effective Death Penalty Act ("AEDPA") to

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

review Graning's allegations. See Lindh v. Murphy, 117 S. Ct. 2059, 2068 (1997). Additionally, the district court apparently reviewed Graning's claims without the benefit of the transcripts of the state trial proceedings.

Accordingly, we vacate the district court's judgment and remand for further proceedings under the appropriate standards. See former 28 U.S.C. § 2254(d); Anderson v. Texas, 507 F.2d 105, 106 (5th Cir. 1975). Graning's motion in this court for an evidentiary hearing is denied.

VACATED AND REMANDED; MOTION DENIED.