

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-10686  
Summary Calendar

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MICHAEL JOHN WARREN,

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  
(4:96-CV-177-A)

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August 27, 1998

Before HIGGINBOTHAM, JONES, and DENNIS, Circuit Judges.

PER CURIAM:\*

We have carefully reviewed the briefs and the pertinent state and federal court records. After doing this, we are persuaded that the district court's disposition of Warren's § 2254 habeas petition should be affirmed on the basis articulated by the district court. We agree with that court's conclusion that the Texas Court of Criminal Appeals ruled on the merits of petitioner's first habeas petition and, for that reason, the Court of Criminal

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Appeals concluded that the second petition was an abuse of the writ. The district court has no other issues before it, and neither do we, as Warren never objected to the magistrate judge's ruling on the non-procedurally-based issues, and he has furnished no briefing on any of these issues to this court.