

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-30980
Summary Calendar

BENNY C. HAYES,

Petitioner-Appellant,

versus

BURL CAIN, Warden,

Respondent-Appellee.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 97-CV-255
- - - - -

June 16, 1998

Before JONES, SMITH and STEWART, Circuit Judges.

PER CURIAM:*

Benny C. Hayes appeals from the district court's order denying his petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He argues that his right to due process was violated by judicial vindictiveness because the sentence imposed after his jury trial was greater than that given under a prior invalidated plea agreement. We have reviewed the record and the district court's opinion and find no reversible error.

Accordingly, we affirm for essentially the reasons given by the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 97-30980

-2-

district court. *Hayes v. Cain*, No. 97-0255-A (W.D. La. Aug. 8, 1997).