

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-10426  
Summary Calendar

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TERRY LEWIS MOREAU,

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  
(1:97-CV-240)

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January 3, 2000

Before SMITH, BARKSDALE, and PARKER, Circuit Judges.

PER CURIAM:\*

Terry Lewis Moreau, Texas prisoner no. 394973, appeals the district court's dismissal of his 28 U.S.C. § 2254 petition for a writ of habeas corpus. In concluding that Moreau's petition was time-barred, the district court did not have the benefit of our court's recent decision in *Villegas v. Johnson*, 184 F.3d 467, 469-70 (5th Cir. 1999) (a state habeas application is "properly filed" for purposes of triggering the tolling provisions as long as it

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

conforms to the state's applicable procedural filing requirements). Under *Villegas*, the 28 U.S.C. § 2244(d) limitations period was tolled by the pendency of Moreau's fourth state habeas petition. Accordingly, the judgment of dismissal is **VACATED** and the case is **REMANDED** to the district court for further proceedings in the light of *Villegas*.

***VACATED and REMANDED***