

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-31140
Summary Calendar
Civil Docket # 98-CV-1837-LLM

MICHAEL JOHNSON,

Petitioner-Appellant,

versus

BURL CAIN, WARDEN, Louisiana State Penitentiary,

Respondent-Appellee.

Appeal from the United States District Court
for the Eastern District of Louisiana

February 1, 2001

Before DAVIS, JONES, and DeMOSS, Circuit Judges.

EDITH H. JONES, Circuit Judge:*

Michael Johnson, Louisiana prisoner # 98671, appeals from the denial of his petition for habeas corpus relief filed pursuant to 28 U.S.C. § 2254, Johnson argues that the instruction on reasonable doubt which the jury received at his trial was unconstitutional under Cage v. Louisiana, 498 U.S. 39 (1990) and Humphrey v. Cain, 138 F.3d 552, 553 (5th Cir. 1998) (en banc).

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Given that the court's instruction on moral certainty was corrected by other language in the instruction, the instruction on the whole was not constitutionally defective. See Williams v. Cain, 229 F.3d 468, 473-75 (5th Cir. 2000), construing an identical instruction.

The judgment of the district court is **AFFIRMED**.