

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40165
Summary Calendar

REGINALD D. BROCK,

Petitioner-Appellant,

versus

GARY L. JOHNSON, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, INSTITUTIONAL DIVISION,

Respondent-Appellee.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 9:97-CV-388
- - - - -

June 18, 1999

Before JOLLY, SMITH, and WIENER, Circuit Judges.

PER CURIAM:*

Petitioner-Appellant Reginald D. Brock, Texas prisoner # 720332, appeals from the district court's dismissal of his 28 U.S.C. § 2254 petition as time-barred. This court granted a certificate of appealability and instructed the Respondent to address two issues: (1) whether Brock's federal habeas petition was properly dismissed pursuant to 28 U.S.C. § 2244(d)(2), and (2) whether the instant petition related back to an earlier

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

petition which was dismissed without prejudice. We have reviewed the record and the briefs of the parties, including the supplement to the record by the Respondent, and hold that, even if the instant petition relates back to the earlier petition, the district court did not err in dismissing the petition as untimely. 28 U.S.C. § 2244(d). Accordingly, the judgment of the district court is AFFIRMED.