

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-40460  
Conference Calendar

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ROI LE' SHILOH-BRYANT,

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 Eastern District of Texas  
USDC No. 6:98-CV-37  
- - - - -

April 16, 1999

Before JONES, SMITH and DUHÉ, Circuit Judges.

PER CURIAM:\*

The district court dismissed as time-barred the federal habeas petition filed by Roi Le' Shiloh-Bryant (Texas prisoner No. 354415), but it granted Shiloh-Bryant a certificate of appealability (COA) as to the issue whether the 28 U.S.C. § 2244(d)(1) limitations period had been tolled by the pendency of Shiloh-Bryant's state habeas application, which was filed during the one-year grace period following the April 24, 1996,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

effective date of the Antiterrorism and Effective Death Penalty Act (AEDPA). See Flanagan v. Johnson, 154 F.3d 196, 201 (5th Cir. 1998). Based on the facts determined by the district court, Shiloh-Bryant's federal petition is timely if the statute of limitations was tolled by § 2244(d)(2) during the one-year grace period. This court having now resolved the tolling issue in Shiloh-Bryant's favor, the district court's denial of federal habeas relief is VACATED and the case is REMANDED to the district court for further proceedings. See Fields v. Johnson, 159 F.3d 914, 914 (5th Cir. 1998).

VACATED AND REMANDED.