

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40539
Conference Calendar

ALEJANDRO LOPEZ,

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 Southern District of Texas
USDC No. C-97-CV-481

October 20, 1999

Before JONES, WIENER, and STEWART, Circuit Judges.

PER CURIAM:*

Alejandro Lopez, Texas prisoner # 336330, appeals the district court's denial of his petition for a writ of habeas corpus filed under 28 U.S.C. § 2254. Lopez's appeal is from the district court's resolution of the merits of the claims he raised in a second, or successive, habeas petition. A prisoner seeking to file a successive habeas petition must first obtain leave from this court to do so. See 28 U.S.C. § 2244(3)(A). Because Lopez did not obtain such permission from this court, the district

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court was without jurisdiction to entertain the petition. See
id. Accordingly, the appellee's motion to dismiss is GRANTED,
the judgment is VACATED, and the case is REMANDED to the district
court with instructions to dismiss the petition.

VACATED and REMANDED.