

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-60079
Summary Calendar

GEORGE PERRY,
also known as George Perry, Jr.,

Petitioner-Appellant,

versus

JOHN BRUSH; MIKE MOORE, Attorney
General, State of Mississippi,

Respondents-Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 3:97-CV-175-S-A

December 29, 1999

Before HIGGINBOTHAM, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:*

George Perry, Mississippi prisoner #84201, appeals from the denial of his pro se writ of habeas corpus petition filed pursuant to 28 U.S.C. § 2254. Perry was granted a certificate of appealability by the district court on the issue whether his counsel rendered ineffective assistance arising from counsel's prior representation of a prosecution witness. In addition to this issue, Perry argues the issue of whether he was denied Due Process. However, the Due Process issue will not be reviewed

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

because it falls outside the ambit of the certificate of appealability. See Lackey v. Johnson, 116 F.3d 149, 152 (5th Cir. 1997).

Perry's attorney did not have a conflict of interest because he did not represent Perry and the prosecution witness simultaneously and the prosecution witness was effectively cross-examined. See Perillo v. Johnson, 79 F.3d 441, 447 (5th Cir. 1996). Further, Perry has not demonstrated prejudice. See Jones v. Jones, 163 F.3d 285, 299 (5th Cir. 1998), cert. denied, 120 S. Ct. 224 (1999).

AFFIRMED.