

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-20540

IN RE DAVID EARL GIBBS,

Movant

Motion for an order authorizing the
United States District Court for the Southern
District of Texas, Houston Division, to consider
a successive habeas 28 U.S.C. § 2254 application

August 21, 2000

Before KING, Chief Judge, and HIGGINBOTHAM and DAVIS, Circuit
Judges.

BY THE COURT:

I

On August 15, 2000, this court issued an opinion and order denying authorization to file a successive petition. A three-judge panel was properly convened and participated at every juncture of deliberations except the final issuing of the order. One member of the panel was not available until this morning. We acted as a quorum to afford Gibbs the maximum opportunity to obtain review. Instead, Gibbs's sole response is that the order cannot be issued by a quorum of a panel. We disagree with that contention.

II

The third member of the panel now being available, the previous order is re-issued.

So ordered.