

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-20960

GERALD CASEY,

Petitioner-Appellant,

versus

JANIE COCKRELL, Director, Texas
Department of Criminal Justice,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
(4:98-CV-1685)

September 12, 2001

Before HIGGINBOTHAM, JONES, and DENNIS, Circuit Judges.

PER CURIAM:*

Gerald Dwight Casey was found guilty of capital murder and sentenced to death by a Texas jury. The Texas courts have rejected his appeals. He requests a certificate of appealability wishing to appeal the United States District Court's denial of his request for federal habeas relief. We affirm the denial of federal relief and his request for certificate of appealability, previously denied by the district court, for essentially the reasons stated by Judge Melinda Harmon in her detailed opinion filed March 9, 2000.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Casey exhausted none of the claims presented in his federal petition. Rather, Casey sought a dismissal from the federal court to enable his return to the state court. Judge Harmon concluded that these claims would face a procedural bar in the state court, a bar sufficient to constitute a ground independent of the constitutional claims. Alternatively, she concluded that none of the claims have merit.

In sum, the district court concluded that Casey failed to present a colorable case sufficient to require discovery or a violation of *Brady*. As for the *Brady* claim, there was an inadequate showing that the State ever had the material it assertedly withheld or that its exculpatory force was more than equivocal.

At bottom, Casey says his girlfriend did the killing. His girlfriend testified that Casey did it. Apart from the implausibility of Casey's story on its face, this was all played out to the jury who convicted Casey and sentenced him to death.

The request for a certificate of appealability is DENIED, and the judgment denying relief is AFFIRMED.