

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-50225
Conference Calendar

JUAN ROBERT RODRIGUEZ, also known as Juan Roberto
Rodriguez,

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 Western District of Texas
USDC No. SA-99-CV-890-OG

December 13, 2000

Before DAVIS, STEWART, and PARKER, Circuit Judges.

PER CURIAM:*

Juan Robert Rodriguez, Texas prisoner #570369, seeks a certificate of appealability ("COA") to appeal the denial of his petition for a writ of error coram nobis challenging his 1990 arson conviction, which the district court construed as a 28 U.S.C. § 2254 habeas corpus petition. Rodriguez argues that the district court erred in: treating his petition for a writ of coram nobis as a habeas petition; failing to consider the substance of his claims; and failing to award him coram nobis relief.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

A COA is not required for an appeal from the denial of a petition for a writ of coram nobis. See 28 U.S.C. § 2253(c)(1); United States v. Dyer, 136 F.3d 417, 429 n.32 (5th Cir. 1998) (refusing to apply habeas law to a coram nobis case). However, "[i]t is well settled that the writ of error coram nobis is not available in federal court to attack state criminal judgments." Sinclair v. Louisiana, 679 F.2d 513, 514 (5th Cir. 1982). Since Rodriguez's petition challenged the validity of his state arson conviction, the district court lacked jurisdiction to grant him coram nobis relief and thus did not err in refusing to construe his petition as seeking such relief. To the extent that Rodriguez is challenging the district court's denial of coram nobis relief, this appeal is DISMISSED.

To the extent that Rodriguez is challenging the district court's denial of habeas corpus relief, he has failed to demonstrate that the district court's rejection on the merits of his claims of infirmities in the state habeas proceedings and procedural dismissal of his remaining claims were debatable or incorrect. See Slack v. McDaniel, 120 S. Ct. 1595, 1604 (2000). Rodriguez's motions for a COA, for appointment of appellate counsel, and for leave to proceed in forma pauperis on appeal are DENIED.