

**January 25, 2005**

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 04-60334  
Summary Calendar

---

JONATHAN FULCHER,

Petitioner - Appellee-Cross-Appellant,

versus

LAWRENCE GREER,

Respondent - Appellant-Cross-Appellee.

-----  
Appeals from the United States District Court  
for the Southern District of Mississippi  
USDC No. 4:03-CV-211-BN  
-----

Before GARZA, DeMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Jonathan Fulcher, Mississippi prisoner No. 49574, requests a certificate of appealability ("COA") to file a cross-appeal of Greer's appeal from the district court's interlocutory order holding Fulcher's 28 U.S.C. § 2254 petition in abeyance pending his exhaustion of an unexhausted claim.

As the Mississippi Supreme Court has now denied Fulcher's application for permission to seek post-conviction relief with regard to the unexhausted issue, both Fulcher's appeal and

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Greer's appeal are now moot. See City of Erie v. Pap's A.M., 529 U.S. 277, 287 (2000); United States Parole Comm'n v. Geraghty, 445 U.S. 388, 395-96 (1980).

Accordingly, we DENY AS MOOT Fulcher's request for a COA and DISMISS AS MOOT Greer's appeal and the cross-appeal filed by Fulcher.

COA DENIED AS MOOT; APPEALS DISMISSED AS MOOT.