

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

February 15, 2008

No. 07-30038
Summary Calendar

Charles R. Fulbruge III
Clerk

HARLAN CAUSEY

Petitioner-Appellant

v.

BURL CAIN, WARDEN, LOUISIANA STATE PENITENTIARY

Respondent-Appellee

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:03-CV-968

Before REAVLEY, SMITH, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Harlan Causey, Louisiana prisoner # 98397, was convicted by a jury of simple possession of cocaine and simple possession of marijuana. *State v. Causey*, 752 So. 2d 287, 289 (La. Ct. App. 2000). The trial court adjudicated Causey as a third felony offender and sentenced him to life imprisonment without benefit of probation or suspension of sentence. *Id.* Causey filed a 28 U.S.C. § 2254 petition challenging that conviction and sentence. Causey now appeals the district court's dismissal of his § 2254 petition as time barred.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Causey argues that the district court erred in finding that he did not place his state certiorari petition in the prison mail on or before February 25, 2000, the deadline for filing. Although Causey challenges the reliability of the state's evidence of the date of filing, he has not shown that the district court clearly erred in its factual finding. See *Alexander v. Cockrell*, 294 F.3d 626, 628 (5th Cir. 2002).

Causey's equitable tolling argument is beyond the scope of remand and therefore is not before this court. Nonetheless, Causey has not shown the "rare and exceptional circumstances" necessary to warrant equitable tolling. See *Felder v. Johnson*, 204 F.3d 168, 170-71 (5th Cir. 2000) (internal quotation marks and citation omitted).

AFFIRMED.