

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-2616

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CURTIS BATRO,

Petitioner-Appellant,

versus

JAMES A COLLINS, DIRECTOR  
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,  
INSTITUTIONAL DIVISION,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Southern District of Texas  
(CA-H-91-565)

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(November 9, 1994)

Before JONES and STEWART, Circuit Judges, and DUPLANTIER\*, District Judge.

PER CURIAM:\*\*

The court has carefully considered the briefs and arguments of counsel and finds no error in the trial court's judgment arising out of the issues presented on appeal. As the Texas Court of Appeals and district court concluded, there was

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\* District Judge of the Eastern District of Louisiana, sitting by designation.

\*\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

plainly sufficient evidence constitutionally to convict Batro of aggravated robbery. Batro threatened his victim with a six-inch lock-blade knife, which a police officer testified is a weapon often used to inflict serious bodily injury. Further, the victim stated that he was in fear of his life at that point. Further, the Texas requirement that the evidence at trial must conform to the theory of criminal responsibility described in the jury instructions is purely a state procedural requirement. Failure by the state court to comply with that requirement is not an error of constitutional dimension that is subject to federal habeas corpus review. Brown v. Collins, 937 F.2d 175 (5th Cir. 1991).

The judgment of the trial court denying habeas corpus is AFFIRMED.