NIN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT United States Court of Appeals Fifth Circuit

FILED June 16, 2008

No. 08-70022

Charles R. Fulbruge III Clerk

CHARLES DEAN HOOD,

Petitioner-Appellant,

V.

NATHANIEL QUARTERMAN, Director, Texas Department of Criminal Justice, Correctional Institutions Division,

Respondent-Appellee.

Appeal from the United States District Court for the Eastern District of Texas No. 4:99-CV-109

Before HIGGINBOTHAM, SMITH, and STEWART, Circuit Judges. PER CURIAM:^{*}

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 07-10286

Charles Hood appeals an order of the district court, entered June 6, 2008, denying his motion for appointment of counsel and his motion for stay of execution. In his merits brief, Hood raises only the following issue: "Does the federal appointment statute, 18 U.S.C. § 3599, provide prisoners sentenced under state law the right to federally appointed and funded counsel to pursue clemency under state law?"

In his brief, Hood "acknowledges that the law of this Circuit has foreclosed the issue." He is correct that in Clark v. Johnson, 278 F.3d 459, 462-63 (5th Cir. 2002), this court held that the statute does not apply to state clemency proceedings.

The order of the district court is accordingly AFFIRMED. Hood's separate motion for stay of execution filed in this court is DENIED.