United States Court of Appeals
Fifth Circuit
F I L E D
April 17, 2007
Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-10655
Conference Calendar

DARRELL WAYNE PHILLIPS,

Petitioner-Appellant,

versus

NATHANIEL QUARTERMAN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:05-CV-27

Before HIGGINBOTHAM, BENAVIDES, and PRADO, Circuit Judges.

PER CURIAM:*

Darrell Wayne Phillips, Texas prisoner # 712352, moves for a certificate of appealability (COA) and appointment of counsel to appeal the dismissal as successive of his third 28 U.S.C. § 2254 application challenging his involuntary manslaughter conviction. He argues that the district court should have applied the miscarriage of justice exception to the filing of successive applications.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Phillips, however, has not shown "that jurists of reason would find it debatable whether . . . the district court was correct in its procedural ruling." Slack v. McDaniel, 529 U.S. 473, 484 (2000). His COA motion is therefore DENIED.

Phillips' COA motion is frivolous insofar as it lacks arguable merit. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). In accordance with this court's previous warning, Phillips is now ORDERED to pay a sanction in the amount of $100, payable to the clerk of this court. The clerk of this court and the clerks of all federal district courts within this circuit are directed to refuse to file any pro se civil complaint or appeal by Phillips unless Phillips submits proof of satisfaction of this sanction. If Phillips attempts to file any further notices of appeal or original proceedings in this court without such proof, the clerk will docket them for administrative purposes only. Any other submissions which do not show proof that the sanction has been paid will be neither addressed nor acknowledged. Accordingly, the motions for a COA and appointment of counsel are DENIED and a SANCTION is IMPOSED.