

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

April 24, 2009

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No. 08-50599  
Summary Calendar

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Charles R. Fulbruge III  
Clerk

PAUL JAMES KOUMJIAN

Petitioner-Appellant

v.

RICK PERRY, Texas Governor; GREG ABBOTT, Texas Attorney General;  
BRAD LIVINGSTON, Executive Director, Texas Department of Criminal  
Justice, TDCJ; TEXAS BOARD OF PARDONS & PAROLES

Respondents-Appellees

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 3:08-CV-148

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Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:\*

Paul James Koumjian, Texas prisoner # 1039181, seeks a certificate of appealability (COA) to appeal the district court's dismissal of his 28 U.S.C. § 2254 petition as an unauthorized successive § 2254 petition. The district court's ruling relied upon its time-bar dismissal of Koumjian's prior federal habeas petition filed in 2005. The appeal from that dismissal, however, remains

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

pending in this court. *See Koumjian v. Quarterman*, No. 06-51492. Accordingly, Koumjian has 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. 43, 484 (2000); *Woollard v. United States*, 416 F.2d 50, 51 (5th Cir. 1968). Koumjian’s motion for a COA is GRANTED, the judgment of the district court is VACATED, and this case is REMANDED for proceedings consistent with this ruling. Koumjian’s motion for the appointment of counsel is DENIED.