

NIN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 08-70022

United States Court of Appeals
Fifth Circuit

FILED

June 16, 2008

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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.