

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

United States Court of Appeals  
Fifth Circuit

**FILED**

February 17, 2010

Charles R. Fulbruge III  
Clerk

\_\_\_\_\_  
No. 08-70030

Summary Calendar  
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GAYLAND BRADFORD,

Petitioner - Appellant

v.

RICK THALER, 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. 3:00-CV-2709  
\_\_\_\_\_

Before HIGGINBOTHAM, ELROD, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

After reviewing the record, we conclude that Bradford has failed to make a substantial showing of the denial of a constitutional right—for essentially the reasons stated by the district court concerning failure to exhaust claims one through three, and its further reasons concerning the other claims. The requests for certificates of appealability are DENIED. Under current precedent in this

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

circuit, the claims of ineffective assistance of counsel were not exhausted in the state court and would be barred in a successive state petition<sup>1</sup> under Texas Code of Criminal Procedure Art. 11.071 § 5(a) and the law remains that ineffective habeas counsel will not excuse a failure to exhaust, as petitioner concedes.

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<sup>1</sup> *C.f. Ruiz v. Quarterman*, 504 F.3d 523 (5th Cir. 2007).