

REVISED FEBRUARY 13, 2017

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

No. 15-11020

United States Court of Appeals

Fifth Circuit

FILED

February 9, 2017

SAMSON M. LOYNACHAN,

Lyle W. Cayce
Clerk

Petitioner-Appellant

v.

LORIE DAVIS, 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. 4:15-CV-708

Before HIGGINBOTHAM, HAYNES, and GRAVES, Circuit Judges.

PER CURIAM:*

Samson M. Loynachan, Texas prisoner #1789266, who stands convicted of murder, seeks a certificate of appealability (COA) to appeal the district court's order denying his motion to stay his 28 U.S.C. § 2254 proceeding so that he could exhaust his state court remedies. He contends that the district court

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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abused its discretion in denying his motion, arguing that he did not engage in dilatory tactics in the state courts.

Loynachan's motion for a COA is DENIED AS UNNECESSARY as no COA is required to review the district court's ruling on this non-merits issue. *See Young v. Stephens*, 795 F.3d 484, 494 (5th Cir. 2015), *cert. denied*, 136 S. Ct. 1453 (2016). His appeal is DISMISSED for lack of jurisdiction, however, because the district court's order is not immediately appealable as it is neither a final order nor an appealable collateral order. *See Grace v. Vannoy*, 826 F.3d 813, 815-21 (5th Cir. 2016); 28 U.S.C. §§ 1291, 1292; *see also Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 106 (2009); *Young*, 795 F.3d at 494-95.