

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

No. 18-40172

United States Court of Appeals
Fifth Circuit

FILED

October 10, 2018

Lyle W. Cayce
Clerk

CURTIS LEE SHEPPARD, JR.,

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 Eastern District of Texas
USDC No. 6:17-CV-439

Before JONES, ELROD, and ENGELHARDT, Circuit Judges.

PER CURIAM:*

Curtis Lee Sheppard, Jr., Texas prisoner # 1656666, seeks a certificate of appealability (COA) to appeal the district court's denial of his motion for preliminary injunctive relief. His motion for injunctive relief was filed after the district court denied his 28 U.S.C. § 2254 petition which challenged a prison disciplinary case. This court has denied Sheppard a COA to appeal the

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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denial of that § 2254 petition. *See Sheppard v. Davis*, No. 18-40026 (5th Cir. Sept. 7, 2018).

Under Rule 11(a) of the Rules Governing § 2254 Proceedings, “the district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” In this case, the district court did not rule on whether a COA should issue in connection with Sheppard’s postjudgment motion for injunctive relief. Because the district court did not do so, we lack jurisdiction. *See Black v. Davis*, 902 F.3d 541, 544-45 (5th Cir. 2018); *Cardenas v. Thaler*, 651 F.3d 442, 443-44 (5th Cir. 2011).

Accordingly, we REMAND the case to the district court for further proceedings consistent with Rule 11(a).