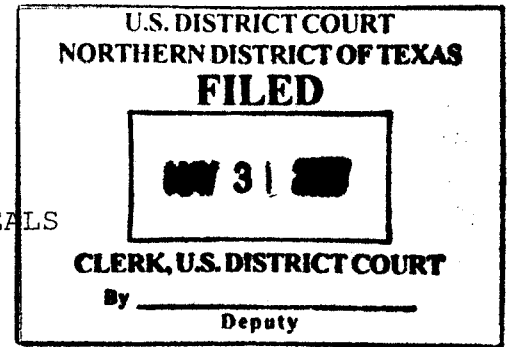


IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-11240
USDC No. 6:05-CV-52



United States Court of Appeals
Fifth Circuit

FILED
May 25, 2007

CARLOS JIMENEZ,

Charles R. Fulbruge III
Clerk
Petitioner-Appellant,

versus

NATHANIEL QUARTERMAN,
DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Texas

O R D E R:

Carlos Jimenez, a Texas prisoner, pleaded guilty of felony burglary of a habitation and admitted an enhancement charge based on a prior felony conviction. The initial judgment of deferred adjudication was revoked, Jimenez was adjudicated guilty, and he was sentenced to 43 years in prison. The district court dismissed Jimenez's 28 U.S.C. § 2254 petition with prejudice as barred by the one-year statute of limitations. Jimenez now seeks a certificate

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of appealability ("COA"), arguing (1) that the granting of an out-of-time appeal by the Texas Court of Criminal Appeals started the limitations period running anew and (2) that he is entitled to equitable tolling.

Jimenez has failed to demonstrate that reasonable jurists would debate the correctness of the district court's conclusion that the § 2254 petition is time-barred. See Slack v. McDaniel, 529 U.S. 473, 484 (2000). Accordingly, the request for a COA is DENIED.

/s/ Jerry E. Smith
JERRY E. SMITH
United States Circuit Judge

A true copy
Attest:

Clerk, U. S. Court of Appeals, Fifth Circuit

By Yvonne B. Martin
Deputy
New Orleans, Louisiana MAY 25 2007