

March 14, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-11096

BILLY RAY NELSON

Petitioner-Appellant

versus

DOUG DRETKE, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION

Respondent-Appellee

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

(Opinion August 12, 2003, 5 Cir., 2003, _____F.3d_____)
(Opinion March 1, 2006, 5 Cir., 2006, _____F.3d_____)

BEFORE: JONES, Chief Judge, JOLLY, KING, HIGGINBOTHAM, DAVIS,
SMITH, WIENER, BARKSDALE, GARZA, DeMOSS, BENAVIDES,
STEWART, DENNIS, CLEMENT, PRADO and OWEN, Circuit
Judges.

BY THE COURT:

A majority of judges in active service having
determined, on the Court's own motion, to rehear this case en
banc,

IT IS ORDERED that this cause shall be reheard by the
Court en banc with oral argument on a date hereafter to be fixed.
The Clerk will specify a briefing schedule for the filing of
supplemental briefs.