

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 88-4126

James R. Stringer,

Petitioner-Appellant,

VERSUS

Lee Roy Black, Commissioner,
Mississippi Department of Corrections, et al.,

Respondents-Appellees.

Appeal from the United States District Court
for the Southern District of Mississippi

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

(November 24, 1992)

Before HIGGINBOTHAM, DAVIS and DeMOSS, Circuit Judges.

DeMOSS, Circuit Judge:

The holding of this court in Stringer v. Jackson, 909 F.2d 111 (1990) has been reversed and the cause has been remanded to this court for further proceedings in conformity with the opinion of the Supreme Court.

Accordingly, our opinion in Stringer v. Jackson, 862 F.2d 1108 (1988), is modified by deleting therefrom the entirety of sub-part III., C. Aggravating Circumstances, and the judgment of the District Court is **VACATED** insofar as it holds that there was no constitutional error in the jury's use of the "especially heinous, atrocious, or cruel" aggravating circumstance.

This case is **REMANDED** to the District Court with instructions to issue the writ of habeas corpus unless the State of Mississippi initiates appropriate proceedings in state court within a reasonable time after the issuance of our mandate. In all other respects, **the judgment of this court in 862 F.2d 1108 and the judgment of the District Court are REAFFIRMED.**