

United States Court of Appeals,
Fifth Circuit.

No. 96-30892

Summary Calendar.

John A. MORAN, Petitioner-Appellant,

v.

Richard L. STALDER, Warden; Richard P. Ieyoub, Attorney General,
State of Louisiana, Respondents-Appellees.

Sept. 8, 1997.

Appeal from the United States District Court for the Eastern
District of Louisiana.

Before JONES, DeMOSS and PARKER, Circuit Judges.

PER CURIAM:

This is a successive 28 U.S.C. § 2254 habeas petition filed by petitioner-appellant John A. Moran ("Moran") in the district court in February 1995, before the effective date of the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), Pub.L. 104-132, 110 Stat. 1214. The district court decided that the petitioner was subject to the successive habeas provisions enacted by the AEDPA that appear at 28 U.S.C. § 2244 and dismissed the habeas petition pending appropriate certification by this court as provided for in 28 U.S.C. § 2244(b)(3), as amended by the AEDPA.

In *Lindh v. Murphy*, --- U.S. ----, 117 S.Ct. 2059, --- L.Ed.2d ---- (1997), the Supreme Court held that the AEDPA's amendments to the chapter of title 28 which includes, *inter alia*, the successive habeas provisions, apply only to cases filed after the AEDPA's effective date of April 24, 1996. "[T]he new provisions of chapter

153 generally apply only to cases filed after the Act became effective." *Id.*, --- U.S. ----, ----, 117 S.Ct. 2059, 2067-68. Following *Lindh*, we hold that § 2254 petitioners presenting a second or successive § 2254 habeas petition are not subject to the new successive habeas provisions unless their successive petitions were filed in the district court after the AEDPA's effective date of April 24, 1996. See *United States v. Carter*, 117 F.3d 262, 264 & n. 1 (5th Cir.1997).

Because Moran's successive petition was filed in the district court prior to the AEDPA's effective date, his petition is not subject to the AEDPA's successive habeas provisions. Consequently, we must reverse and remand so that the district court may consider Moran's petition under pre-AEDPA standards.

REVERSED AND REMANDED.