

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-60190
Conference Calendar

HAL EUGENE SYKES,

Petitioner-Appellant,

versus

STATE OF MISSISSIPPI; MIKE MOORE,
Attorney General, State of Mississippi,

Respondents-Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 1:99-CV-107-S-A

October 17, 2000

Before SMITH, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Hal Eugene Sykes, *pro se* Mississippi prisoner # 13137, was granted a certificate of appealability by the district court on the issue whether Sykes was denied effective assistance of counsel on appeal. Sykes's original brief argues only that the district court erred in adopting the magistrate judge's report and recommendation without ordering discovery of a transcript pertaining to a waiver-of-appeal.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

Sykes's discovery claim is not reviewable as it is outside the scope of the COA, see United States v. Kimler, 150 F.3d 429, 431 (5th Cir. 1998), and Sykes has abandoned his ineffective assistance claim by failing to raise it in his initial brief. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993) (court of appeals will not consider issue not raised in original brief). Moreover, Sykes has failed to point to any evidence rebutting the magistrate judge's findings regarding ineffective assistance. The judgment of the district court is AFFIRMED.