

July 9, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-20265  
Summary Calendar

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WILLIAM MCKINNELLY EVANS,

Petitioner-Appellant,

versus

JANIE COCKRELL, DIRECTOR,  
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,  
INSTITUTIONAL DIVISION,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-00-CV-345  
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Before HIGGINBOTHAM, SMITH and CLEMENT, Circuit Judges.

PER CURIAM:\*

William McKinnley Evans, Texas prisoner No. 554193, requests that this court appoint counsel to represent him on appeal. The motion for appointment of counsel is DENIED. Evans seeks a certificate of appealability (COA) to appeal the district court's denial of a motion seeking his immediate release. It is not necessary for Evans to obtain a COA in order to appeal. Evans'

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

motion is based on his misinterpretation of an order issued in his federal habeas corpus proceeding, but the motion does not directly challenge the constitutionality of his conviction and sentence. 28 U.S.C. § 2253(c).

Consequently, the motion for appointment of counsel is DENIED, the motion for COA is DENIED AS UNNECESSARY, and the decision of the district court is AFFIRMED.