

January 13, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-10726  
Summary Calendar

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COYETT DEON JOHNSON,

Petitioner-Appellant,

versus

WARDEN U.S. PENITENTIARY POLLOCK,  
also known as Carl Casterline,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 7:04-CR-77-R  
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Before GARZA, DeMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Coyett Deon Johnson, federal prisoner # 07403-064, appeals from the district court's dismissal without prejudice of his habeas corpus petition filed pursuant to 28 U.S.C. § 2254. Johnson argues that the district court erred in determining that it lacked subject matter jurisdiction.

We review the district court's dismissal for lack of subject matter jurisdiction de novo. See Peoples Nat'l Bank v. Office of the Comptroller, 362 F.3d 333, 336 (5th Cir. 2004). Johnson

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

argues that his instant Oklahoma federal conviction was improperly enhanced based upon an invalid state conviction from Wichita County, Texas. Johnson concedes that he has discharged his sentence on the Wichita County conviction and that he was not successful in challenging this conviction on collateral review. See Lackawanna County Dist. Attorney v. Coss, 532 U.S. 394, 402 (2001). Accordingly, the district court did not err in dismissing his 28 U.S.C. § 2254 petition for lack of subject matter jurisdiction. See id. The judgment of the district court is AFFIRMED.