

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

September 30, 2008

No. 07-40298
Summary Calendar

Charles R. Fulbruge III
Clerk

ARTHUR LEE POWELL

Petitioner-Appellant

v.

NATHANIEL QUARTERMAN, DIRECTOR, TEXAS DEPARTMENT OF
CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION

Respondent-Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:06-CV-224

Before HIGGINBOTHAM, BARKSDALE and ELROD, Circuit Judges.

PER CURIAM:*

Arthur Lee Powell, Texas prisoner # 438963, appeals the dismissal of his 28 U.S.C. § 2254 petition, in which he challenged a disciplinary proceeding. A certificate of appealability was granted on whether Powell was entitled to mandatory supervised release, thereby creating a liberty interest in the process he received at the disciplinary hearing. The respondent asserts that Powell was entitled to mandatory supervised release and that the case should be remanded

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

in light of *Teague v. Quarterman*, 482 F.3d 769, 773 (5th Cir. 2007). The respondent has also filed a motion to remand the case.

The respondent's motion to remand is GRANTED. The district court's dismissal of Powell's due process claim is VACATED, and the case is REMANDED to the district court for it to consider the merits of Powell's due process claim regarding the loss of good time credit.