

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-10776
Summary Calendar

MIGUEL REYNA,

Petitioner-Appellant,

versus

GARY L. JOHNSON, Director,
Texas Department of Criminal Justice,
Institutional Division,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 6:95-CV-035-C

July 17, 1996

Before JOLLY, JONES, and STEWART, Circuit Judges.

PER CURIAM:*

Miguel Reyna appeals the dismissal of his habeas corpus petition on grounds of writ abuse. Having reviewed the record and briefs, we AFFIRM the judgment for essentially the same reasons adopted by the district court. Reyna v. Scott, No. 6:95-CV-045-C (N.D. Tex. Aug. 3, 1995). We add that petitioner has not alleged

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

facts sufficient to bypass the cause and prejudice requirement with a showing of "factual innocence." Sawyer v. Whitley, ___ U.S. ___, 112 S.Ct. 2514 (1992). He alleges that he shot his former lover twice in self-defense at close range with a 12-gauge shotgun. This issue, far from being concealed, was sent to the jury, and they rejected it. Such facts do not amount to a colorable claim of innocence that would permit Reyna to escape the doctrine of writ abuse.

The judgment of the district court is AFFIRMED.