UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 95-30866
Summary Calendar

EARL LEWIS JR.,

Petitioner-Appellant,

VERSUS

BURL CAIN, Acting Warden, Louisiana State Penitentiary;
RICHARD P. IEYOUB, Attorney General, State of Louisiana,

Respondents-Appellees.

Appeal from the United States District Court
for the Eastern District of Louisiana

April 26, 1996

Before WISDOM, HIGGINBOTHAM, and PARKER, Circuit Judges.

PER CURIAM:[*]

Earl Lewis Jr., the petitioner/appellant, appeals the district court's dismissal of his petition for writ of habeas corpus as successive pursuant to Rule 9(b) of the Rules Governing § 2254 Cases. Lewis contends that the state trial court's reasonable doubt instruction was erroneous. Lewis, however, has not established a reasonable likelihood that the jury applied the challenged instruction in a manner that violates the Constitution.[1] As a result, Lewis has not satisfied the cause-and-

---

[*] Pursuant to Local Rule 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

[1] See Victor v. Nebraska, 114 S. Ct. 1239, 1247-51 (1994); Schneider v. Day, 73 F.3d 610, 611-12 (5th Cir. 1996); Weston v. Ieyoub, 69 F.3d 73, 75 (5th Cir. 1995); Gaston v. Whitley, 67 F.3d 121, 122-23 (5th Cir. 1995).

prejudice test and we find that the district court did not abuse its discretion to dismiss Lewis's petition as successive. AFFIRMED.