

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 95-40536  
Summary Calendar

---

WINSTON WAYNE HUCKABY,

Plaintiff-Appellant,

versus

WAYNE SCOTT, DIRECTOR,  
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,  
INSTITUTIONAL DIVISION,

Defendant-Appellee.

- - - - -  
Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 6:94-CV-998  
- - - - -

January 16, 1996

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Winston Wayne Huckaby appeals from the district court's order dismissing without prejudice his petition for habeas corpus for failure to exhaust state court remedies. He argues that his claim of suppression of the evidence was fairly presented to the state court and that exhausting state remedies would be futile. We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we affirm for essentially

---

\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

No. 95-40536

-2-

the same reasons given by the district court. *Huckaby v. Scott*,  
No. 6:94-CV-998 (E.D. Tex. June 14, 1995).

AFFIRMED.