

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-31043
Summary Calendar

CORNELIUS J. DUPARD, III,

Petitioner-Appellant,

versus

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

Respondents-Appellees.

Appeal from the United States District Court for the
Eastern District of Louisiana
USDC No. 96-CV-789-D

December 4, 1997
Before JOLLY, BENAVIDES, and PARKER, Circuit Judges.

PER CURIAM:*

Cornelius J. Dupard, III, Louisiana prisoner #103460, appeals from the district court's order dismissing, without prejudice, his 28 U.S.C. § 2254 habeas corpus petition. The district court's order was based on Dupard's failure to seek permission from this court to file a successive § 2254 petition, pursuant to 28 U.S.C. § 2244(b)(3) as amended by the Antiterrorism and Effective Death

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Penalty Act ("AEDPA"). Because Dupard filed his petition prior to the AEDPA's April 24, 1996 enactment date, however, the provision requiring permission in amended § 2244(b)(3) does not apply to his petition. See Williams v. Cain, 117 F.3d 363, 363-65 (5th Cir. 1997). Accordingly, the district court's order is VACATED and this case is REMANDED for further proceedings.

VACATED and REMANDED.