

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 97-50137

(Summary Calendar)

RUSSELL L GANT,

Petitioner-Appellant,

versus

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

Respondent-Appellee.

Appeal from the United States District Court
For the Western District of Texas
(W-96-CA-477)

July 9, 1998

Before WIENER, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Russell L. Gant, Texas prisoner # 640934, argues that the district court erred in dismissing his 28 U.S.C. § 2254 habeas petition as barred by the one-year statute of limitations provided in the Antiterrorism and Effective Death Penalty Act of 1996

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

(AEDPA).

After the district court dismissed Gant's habeas petition, this court held that a habeas petition that is filed in the district court within one year of the passage of AEDPA is timely. See *United States v. Flores*, 135 F.3d 1000, 1005-06 (5th Cir. 1998). Gant filed his petition approximately three months after the effective date of AEDPA. Accordingly, the district court's dismissal of Gant's habeas petition is VACATED and the case is REMANDED for further proceedings.

VACATED AND REMANDED.