

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-30265
Summary Calendar

MICHAEL JYLES,

Petitioner-Appellant,

versus

RICHARD IEYOUB, Attorney General,
State of Louisiana; BURL CAIN, Warden,

Respondents-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 97-CV-2916-D
- - - - -

August 28, 1998

Before EMILIO M. GARZA, DeMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Michael Jyles, Louisiana state prisoner #97428, appeals the district court's dismissal, without consideration of the merits, of his successive 28 U.S.C. § 2254 petition asserting a claim of an unconstitutional jury instruction on reasonable doubt. Jyles argues that the claim is based on a new rule of constitutional law made retroactive to cases on collateral review by the Supreme Court. See 28 U.S.C. § 2244(b)(2)(A). Although we initially granted Jyles leave to file his successive petition in district

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court, we have since held that the claim does not meet the requirements of § 2244(b)(2)(A). In re Smith, 142 F.3d 832, 834-36 (5th Cir. 1998).

AFFIRMED.