

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-50259
Summary Calendar

SERGIO HIRAM ALVIDREZ,

Petitioner-Appellant,

versus

GARY L. JOHNSON, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
INSTITUTIONAL DIVISION,

Respondent-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-96-CA-432-H
- - - - -

November 2, 1998

Before DAVIS, WIENER and STEWART, Circuit Judges.

PER CURIAM:*

Sergio Hiram Alvidrez, Texas prisoner No. 512255, has filed an appeal of the district court's denial of his § 2254 habeas corpus petition. The notice of appeal is treated as an application for a certificate of appealability (COA) and to proceed IFP. See Fed. R. App. P. 22(b). Alvidrez's request to proceed IFP is granted, and his motion to correct his appellate brief is denied as moot. The district court dismissed the case based upon the running of the statute of limitations. COA is

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

granted, and the case is vacated and remanded for reconsideration in light of our opinion in United States v. Flores, 135 F.3d 1000, 1005 (5th Cir. 1998).

COA GRANTED; MOTION TO PROCEED IFP GRANTED; MOTION TO CORRECT BRIEF DENIED AS MOOT; VACATED AND REMANDED.