

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-41514

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DEWEY GLYNN DAILY,

Petitioner-Appellant,

versus

GARY L. JOHNSON, Director, Texas Department  
of Criminal Justice - Institutional Division,

Respondent-Appellee.

Appeal for the United States District Court  
for the Eastern District of Texas  
(6:97-CV-697)

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March 8, 1999

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

PRE CURIAM:\*

Dewey Glynn Daily appeals the district court's dismissal of his petition for a writ of habeas corpus.

In light of our recent decisions in *Flanagan v. Johnson*, 154 F.3d 196 (5<sup>th</sup> Cir. 1998), and *Fields v. Johnson*, No. 98-10012 (5<sup>th</sup> Cir. October 28, 1998), the Attorney General of the State of Texas now concedes that Appellant's habeas corpus petition was timely filed under the Antiterrorism and Effective Death Penalty Act of 1996. Therefore, we vacate the judgment of the district court and remand the case for further proceedings.

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\*Pursuant to 5<sup>th</sup> CIR.R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5<sup>th</sup> CIR.R. 47.5.4.

VACATED AND REMANDED