

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-60500
Summary Calendar

CHESTER JORDAN JOHNSTON, JR.,

Petitioner-Appellant,

versus

JAMES V. ANDERSON, Superintendent,
Mississippi State Penitentiary;
MICHAEL MOORE,

Respondents-Appellees.

Appeal from the United States District Court for the
Northern District of Mississippi
USDC No. 4:95-CV-135 S-B

July 27, 1998

Before JOLLY, BENAVIDES, and PARKER, Circuit Judges.

PER CURIAM:*

Chester Jordan Johnston, Jr., Mississippi prisoner #02056, appeals from the district court's judgment denying his petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. We have reviewed the record and the briefs of the parties, and we find no reversible error. Johnston's challenges to the district court's factual findings and legal conclusions on the issue of the trial court's evidentiary ruling and the missing evidence issue are

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

barred because he fails to show plain error. See Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc). Johnston's unbriefed assertions that the trial court judge improperly commented on the trial and improperly gave the jury a charge pursuant to Allen v. United States, 164 U.S. 492 (1896), are deemed abandoned and therefore do not provide Johnston grounds for habeas relief. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993).

A F F I R M E D.