

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 99-10643  
Summary Calendar

---

RICKY EUGENE MORROW,

Petitioner-Appellant,

versus

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

Respondent-Appellee.

---

Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:98-CV-2051

---

February 25, 2000

Before JOLLY, JONES, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Ricky Eugene Morrow appeals the district court's denial of his 28 U.S.C. § 2254 petition. Morrow contends that he received ineffective assistance of counsel when he pleaded guilty to one count of robbery and two counts of attempted murder and that the district court erred in determining that his counsel was not ineffective.

Morrow first argues that his counsel was ineffective for failing to inform him that the pleas could be used to impeach him in his second capital murder trial. Because this was a collateral

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

consequence of the pleas, the district court did not err in determining that counsel was not ineffective for failing to so advise Morrow. See United States v. Banda, 1 F.3d 354, 365 (5th Cir. 1993).

Morrow alternatively argues that his counsel affirmatively misled him by telling him that the pleas would have no adverse consequences if a retrial was granted in his capital murder case. The district court did not err in determining that Morrow failed to rebut that state court's finding on this issue by clear and convincing evidence. See 28 U.S.C. § 2254(e)(1). Accordingly, the judgment of the district court is

A F F I R M E D.