

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-30565  
Summary Calendar

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LARRY TRIGGS,

Petitioner-Appellant,

versus

BURL CAIN, Warden,

Respondent-Appellee.

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Appeal from the United States District Court for the  
Eastern District of Louisiana  
USDC No. 97-CV-2430-K

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May 23, 2000

Before GARWOOD, HIGGINBOTHAM, and WIENER, Circuit Judges.

PER CURIAM:\*

Larry Triggs, Louisiana inmate #66331, appeals the district court's dismissal of his 28 U.S.C. § 2254 petition as time-barred by the one-year statute of limitations set forth in 28 U.S.C. § 2244(d). Triggs contends that the district court erred in determining that his state application for post-conviction relief was not "properly filed" as that term is used in § 2244(d)(2).

This Court's opinion in *Smith v. Ward*, \_\_\_ F.3d \_\_\_, 2000 WL

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 R. 47.5 the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

358294 at \*2-3 (5th Cir. Apr. 7, 2000), indicates that Triggs' state application for post-conviction relief was "properly filed" for purposes of § 2244(d) and should have tolled the § 2244(d) limitations period. Accordingly, the judgment dismissing Triggs' § 2254 application as time-barred is VACATED, and the case is REMANDED for proceedings consistent with this opinion.

VACATED and REMANDED.