

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-40187
Conference Calendar

JAMES BEROTTE,

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 Eastern District of Texas
USDC No. 1:98-CV-1926
- - - - -

December 13, 2000

Before DAVIS, STEWART, and PARKER, Circuit Judges.

PER CURIAM:*

James Berotte, Texas prisoner # 641970, appeals the district court's denial of his 28 U.S.C. § 2254 petition challenging the forfeiture of previously earned good-time credits upon the revocation of his parole. He argues that this forfeiture violates the Ex Post Facto Clause and seeks restoration of the forfeited good-time credits. A certificate of appealability was previously granted.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The respondent has filed a motion to dismiss the action as moot due to Berotte's re-release on parole. This argument is meritorious. Berotte has not shown an injury-in-fact, and his habeas claims are moot due to his re-release on parole. Spencer v. Kemna, 523 U.S. 1, 7 (1998); see Ex parte Hallmark, 883 S.W.2d 672, 674 (Tex. Crim. App. 1994) (good-time credits apply only to an inmate's eligibility for parole or mandatory supervision and do not affect the length of the inmate's sentence). Therefore, respondent's motion to dismiss the appeal is GRANTED, and the appeal is DISMISSED AS MOOT.