

United States Court of Appeals  
for the Fifth Circuit

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No. 20-50904

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United States Court of Appeals  
Fifth Circuit

**FILED**

March 3, 2022

Lyle W. Cayce  
Clerk

JUAN ENRIQUEZ,

*Petitioner—Appellant,*

*versus*

BOBBY LUMPKIN, *Director, Texas Department of Criminal Justice,  
Correctional Institutions Division,*

*Respondent—Appellee.*

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Application for Certificate of Appealability from the  
United States District Court for the Western District of Texas  
USDC No. 5:20-CV-977

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ORDER:

Juan Enriquez, Texas prisoner # 227122, filed a pleading, styled as a 28 U.S.C. § 2241 petition, challenging his conviction for capital murder for which his death sentence subsequently was commuted to life. The district court construed the pleading as arising under 28 U.S.C. § 2254. The district court found that the § 2254 application was successive and unauthorized and dismissed the application for lack of jurisdiction.

Enriquez has now moved for a certificate of appealability (COA). His motion to return the habeas pleading to the Southern District of Texas, which is construed as a supplemental brief, is GRANTED only insofar as he seeks

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leave to file a supplemental COA brief. His supplemental COA brief has been considered in reviewing his request for a COA. His motion to return is otherwise DENIED, as is his request for a COA, for the reasons explained below.

According to Enriquez, the district court erred in construing his filing as arising under § 2254 rather than § 2241. He alleges that he is not currently incarcerated pursuant to any state court judgment in that no court imposed a life sentence upon him; rather, he was sentenced to death for capital murder and later had his sentence commuted by the Governor of Texas. Therefore, he asserts that the district court lacked jurisdiction to consider his pleading. Enriquez further argues that he does not require prior authorization to file his pleading or need a COA to proceed because his pleading is not a successive § 2254 application.

To obtain a COA, a prisoner must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *see Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). Where, as here, the district court’s denial of relief is based on procedural grounds, this court will issue a COA “when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Enriquez has not made the required showing. Accordingly, his motion for a COA is DENIED. His motions for leave to proceed in forma pauperis, to stay proceedings in this court to enable him to secure counsel and to obtain records of state habeas proceedings, and for judicial notice are DENIED.

A previous sanction of \$200 has not deterred Enriquez from asserting frivolous challenges to his conviction and sentence. Thus, this court imposes

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a SANCTION of \$300, payable to the clerk of this court. Until that sanction is paid, Enriquez is BARRED from filing any pro se pleading or appeal in any court subject to this court's jurisdiction without the advance written permission of a judge of the forum court. The clerk of this court and the clerks of all federal district courts in this circuit are DIRECTED to return to Enriquez, unfiled, any attempted submission inconsistent with this order. To obtain permission under this order, Enriquez must send a letter to the clerk of the forum court requesting such permission and attaching copies of the proposed filing and this order. He is WARNED that any future frivolous or repetitive filings in this court or any court subject to this court's jurisdiction will subject him to additional sanctions.

*Edith H. Jones*  
EDITH H. JONES  
*United States Circuit Judge*

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JUAN ENRIQUEZ,

*Petitioner—Appellant,*

*versus*

BOBBY LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

*Respondent—Appellee.*

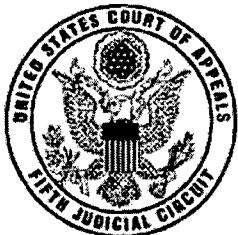
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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 5:20-CV-977

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## CLERK'S OFFICE:

Under 5TH CIR. R. 42.3, the appeal is dismissed as of March 23, 2021, for want of prosecution. The appellant failed to timely comply with the court's notice of December 2, 2020.



LYLE W. CAYCE  
Clerk of the United States Court  
of Appeals for the Fifth Circuit

*Charles Whitney*

By: \_\_\_\_\_  
Charles B. Whitney, Deputy Clerk

A True Copy  
Certified order issued Mar 23, 2021

*Lytle W. Cayce*  
Clerk, U.S. Court of Appeals, Fifth Circuit

ENTERED AT THE DIRECTION OF THE COURT