

United States Court of Appeals

FOR THE EIGHTH CIRCUIT

No. 96-2072

Thomas L. Miller,	*
	*
Appellant,	*
	*
v.	*
	*
Larry Norris, Director,	*
Arkansas Department of	*
Correction,	*
	*
Appellee.	*

Appeal from the United States District Court for the Eastern District of Arkansas.

[UNPUBLISHED]

Submitted: March 5, 1997

Filed: April 8, 1997

Before HANSEN, MORRIS SHEPPARD ARNOLD, and MURPHY, Circuit Judges.

PER CURIAM.

Thomas L. Miller, an Arkansas inmate, brought a 28 U.S.C. § 2254 petition asserting that the evidence was insufficient to support his three state drug convictions, and that his trial counsel was ineffective. The district court¹ dismissed the petition as procedurally barred, rejecting Miller's assertion of ineffective assistance as cause. Miller appeals. Having reviewed

¹The Honorable Henry L. Jones, Jr., United States Magistrate Judge for the Eastern District of Arkansas, to whom the case was referred for final disposition by consent of the parties pursuant to 28 U.S.C. § 636(c).

the record, we conclude that Miller cannot show he was prejudiced by his counsel's performance, and thus we need not determine whether that performance was deficient. See Strickland v. Washington, 466 U.S. 668, 697 (1984); see also Lockhart v. Fretwell, 506 U.S. 364, 369 (1993) (explaining Strickland prejudice standard). As Miller has not established cause to excuse his state procedural default, see Murray v. Carrier, 477 U.S. 478, 488 (1986), we agree that his federal habeas claims are procedurally barred.

Accordingly, we affirm the district court's judgment.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.