

United States Court of Appeals  
FOR THE EIGHTH CIRCUIT

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No. 97-1188EA

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Howard Wayne Jones,

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Appellant,

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v.

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

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Larry Norris, Director, Arkansas  
Department of Correction,

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[UNPUBLISHED]

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Appellee.

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Submitted: January 22, 1998

Filed: February 3, 1998

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Before FAGG, BRIGHT, and MURPHY, Circuit Judges.

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PER CURIAM.

The court grants Howard Wayne Jones a certificate of appealability allowing an appeal from the district court's denial of Jones's fourth petition for a writ of habeas corpus. Because Jones attacks the execution of his state sentence, we consider Jones's petition under 28 U.S.C. § 2241. In our view, briefing by the parties will serve no useful purpose and we now turn to the merits of Jones's appeal. Having considered the record, we conclude Jones's contention that he is eligible for parole notwithstanding three earlier felony convictions when he pleaded guilty in 1979 is without merit. See Schwindling v. Smith, 777 F.2d 431, 432-33 (8th Cir. 1985); Watson v. State, 609

S.W.2d 673, 674 (Ark. Ct. App. 1980). Even if we consider Jones's petition under 28 U.S.C. § 2254, we would reject his appeal because the district court correctly dismissed his petition for abuse of the writ.

We thus deny Jones's motion for appointment of counsel and affirm the judgment of the district court. See 8th Cir. R. 47B.

A true copy.

Attest:

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