

United States Court of Appeals

FIFTH CIRCUIT
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June 29, 2000

Ms Loretta Whyte, Clerk
Eastern District of Louisiana, New Orleans
United States District Court
500 Camp Street
Room C-151
New Orleans, LA 70130

No. 99-31218 Nabors v. Day
USDC No. 98-CV-3069-H

Enclosed is a certified copy of the judgment issued as the mandate.

Record/original papers/exhibits are returned:

(1) Volume () Envelopes (1) Box

Sincerely,

CHARLES R. FULBRUGE III, Clerk

By: LaTonya Grant
LaTonya Grant, Deputy Clerk

cc: w/encl:
Mr Christopher Nabors
Ms Susan Erlanger Talbot

MDT-1

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U.S. COURT OF APPEALS

FILED

JUN 29 2000

No. 99-31218
USDC No. 98-CV-3069-H

CHARLES R. FULBRUGE III
CLERK

CHRISTOPHER NABORS,

Petitioner-Appellant,

versus

EDGAR C. DAY, Warden; RICHARD L. STALDER, Secretary,
Department of Public Safety and Corrections,

Respondent-Appellee.

Appeal from the United States District Court
for the Eastern District of Louisiana

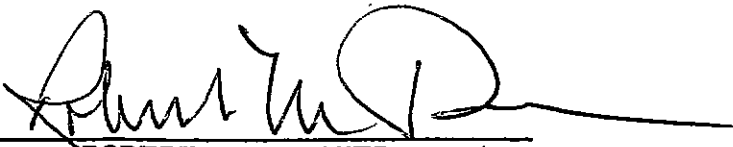
O R D E R:

Christopher Nabors, Louisiana inmate #362005, requests a certificate of appealability (COA) to appeal the district court's dismissal of his petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. Nabors contends that the trial court deprived him of due process by instructing the jury that it could consider competent evidence other than chemical tests as proof that he was acting under the influence of alcohol. Nabors contends that the instruction relieved the State of its burden of proof on an element of the offense of vehicular homicide. He also contends that the trial court deprived him of due process by admitting evidence of the results of blood tests from a

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contaminated blood sample and evidence of estimates of his blood alcohol level at the time of the offense.

Nabors has not made a substantial showing of the denial of a constitutional right on these issues. See 28 U.S.C. 2253(c)(2). Accordingly, a COA is DENIED.



ROBERT M. PARKER
UNITED STATES CIRCUIT JUDGE