

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-70005

JOHN H. RAMIREZ,

Petitioner - Appellee

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent - Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:12-CV-410

Before KING, CLEMENT, and OWEN, Circuit Judges.

PER CURIAM:*

John Ramirez is scheduled to be executed by the State of Texas on February 2, 2017. On January 27, 2017, Ramirez filed two motions in the district court: (1) a motion to stay the execution; and (2) a motion for the appointment of new counsel pursuant to 18 U.S.C. § 3599. After holding a hearing on January 31, 2017, the district court granted the motion to stay the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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execution and provisionally granted the motion for the appointment of new counsel. The State has filed a motion to vacate the stay of execution in this court. Reviewing the grant of the stay for abuse of discretion, we find no reversible error on the part of the district court. *See, e.g., Adams v. Thaler*, 679 F.3d 312, 318 (5th Cir. 2012). Moreover, the district court did not lack jurisdiction under these circumstances to grant the stay. *Battaglia v. Stephens*, 824 F.3d 470, 475–76 (5th Cir. 2016) (per curiam). Motion to vacate stay of execution is DENIED.