

Not for Publication in West's Federal Reporter -
Citation Limited Pursuant to 1st Cir. Loc. R. 32.3

United States Court of Appeals For the First Circuit

No. 02-2203

KENNETH JACKSON,
Petitioner, Appellant,
v.

LUIS SPENCER,
Respondent, Appellee.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
[Hon. Rya W. Zobel, U.S. District Judge]

Before
Boudin, Chief Judge,
Lipez and Howard, Circuit Judges.

Kenneth Jackson on brief pro se.
Thomas F. Reilly, Attorney General, and Cathryn A. Neaves,
Assistant Attorney General, on brief for appellee.

June 12, 2003

Per Curiam. We have reviewed the parties' briefs and the record on appeal. We affirm essentially for the reasons stated in the district court's memorandum of decision, dated August 12, 2002.

We reject appellant's contention that his habeas petition was dismissed by the district court without notice and an opportunity to be heard. Appellant, in fact, filed an opposition to the state's motion to dismiss, which the court considered. Although appellant sought to file a *second* response to the motion to dismiss, the district court did not abuse its discretion in refusing that request. Further, there was no abuse of discretion in denying appellant's motion seeking an evidentiary hearing.

Affirmed.