

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 07-1847

Jimmy Shane Cantrell,

Appellant,

v.

Larry Norris,

Appellee.

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

[UNPUBLISHED]

Submitted: October 7, 2008
Filed: October 10, 2008

Before WOLLMAN, SMITH, and GRUENDER, Circuit Judges.

PER CURIAM.

In this interlocutory appeal, Arkansas state prisoner Jimmy Cantrell challenges the district court's ¹denial of his motion for partial summary judgment and his request for a temporary restraining order (TRO) and preliminary injunction in his 28 U.S.C. § 2254 action.

We lack jurisdiction to review the denial of a TRO, see Hamm v. Groose, 15 F.3d 110, 112-13 (8th Cir. 1994), or to review the denial of summary judgment, see

¹The Honorable James M. Moody, United States District Judge for the Eastern District of Arkansas.

Krein v. Norris, 250 F.3d 1184, 1187 (8th Cir. 2001). With respect to the denial of a preliminary injunction, we conclude that the district court did not abuse its discretion or otherwise err by finding that it had no authority to order state court clerks to adhere to the federal prison-mailbox rule. See Safety-Kleen Sys., Inc. v. Hennkens, 301 F.3d 931, 935 (8th Cir. 2002) (standard of review); Winkels v. George A. Hormel & Co., 874 F.2d 567, 568 (8th Cir. 1989) (general rule is that state procedural rules govern cases originating in state court). As to Cantrell's desire for an evidentiary hearing (with appointed counsel) on his habeas claims, we note that the district court will determine whether such a hearing is warranted. See Rule 8(a) & (c), Rules Governing Section 2254 Cases in the United States District Courts.

Accordingly, we affirm the denial of a preliminary injunction. See 8th Cir. R. 47B.
