

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

No. 15-40704
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 24, 2016

Lyle W. Cayce
Clerk

JEROLD WILLIAMS,

Plaintiff-Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE CORRECTIONAL
INSTITUTIONS DIVISION; ANGEL DAVILA; SANTOS MONTEZ,

Defendants-Appellees

ALEJANDRO AVILA

Plaintiff-Appellant

v.

ANGEL DAVILA; TEXAS DEPARTMENT OF CRIMINAL - JUSTICE
CORRECTIONAL INSTITUTIONS DIVISION,

Defendants-Appellees

No. 15-40704

JOSHUA MAZIQUE BURTON

Plaintiff-Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE - CORRECTIONAL
INSTITUTIONS DIVISION; SANTOS O. MONTEZ; ANGEL DAVILA,

Defendants-Appellees

XAVIER COOPER

Plaintiff-Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE - CORRECTIONAL
INSTITUTIONS DIVISION; ANGEL DAVILA,

Defendants-Appellees

JULIUS TIMOTHY DAWSON

Plaintiff-Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE - CORRECTIONAL
INSTITUTIONS DIVISION; ANGEL DAVILA,

Defendants-Appellees

No. 15-40704

JEROME DEGREE

Plaintiff-Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE - CORRECTIONAL
INSTITUTIONS DIVISION; ANGEL DAVILA,

Defendants-Appellees

NICHOLAS D. GRAVES; JOSHUA BURTON,

Plaintiffs-Appellants

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE - CORRECTIONAL
INSTITUTIONS DIVISION; ANGEL DAVILA,

Defendants-Appellees

LEON HARPER

Plaintiff-Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE - CORRECTIONAL
INSTITUTIONS DIVISION; ANGEL DAVILA,

Defendants-Appellees

No. 15-40704

BENJAMIN D. MARTIN

Plaintiff-Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE - CORRECTIONAL
INSTITUTIONS DIVISION; ANGEL DAVILA,

Defendants-Appellees

BILLY WAYNE MORGAN

Plaintiff-Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE - CORRECTIONAL
INSTITUTIONS DIVISION; ANGEL DAVILA,

Defendants-Appellees

TROY D. RECTOR

Plaintiff-Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE - CORRECTIONAL
INSTITUTIONS DIVISION; ANGEL DAVILA,

Defendants-Appellees

No. 15-40704

ELIAZAR M. RINCON

Plaintiff-Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE - CORRECTIONAL
INSTITUTIONS DIVISION; ANGEL DAVILA,

Defendants-Appellees

JAMES EARL SADBERRY

Plaintiff-Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE - CORRECTIONAL
INSTITUTIONS DIVISION; ANGEL DAVILA,

Defendants-Appellees

ANTONIO SHELVIN

Plaintiff-Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE - CORRECTIONAL
INSTITUTIONS DIVISION; ANGEL DAVILA,

Defendants-Appellees

No. 15-40704

BENJAMIN VALLIE

Plaintiff-Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE - CORRECTIONAL
INSTITUTIONS DIVISION; ANGEL DAVILA,

Defendants-Appellees

JOSEPH A. WHITFIELD

Plaintiff-Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE - CORRECTIONAL
INSTITUTIONS DIVISION; ANGEL DAVILA,

Defendants-Appellees

Appeal from the United States District Court
for the Southern District of Texas

USDC No. 3:11-CV-313

USDC No. 3:11-CV-316

USDC No. 3:11-CV-317

USDC No. 3:11-CV-318

USDC No. 3:11-CV-320

USDC No. 3:11-CV-321

USDC No. 3:11-CV-322

USDC No. 3:11-CV-325

USDC No. 3:11-CV-327

USDC No. 3:11-CV-328

USDC No. 3:11-CV-329

USDC No. 3:11-CV-339

USDC No. 3:11-CV-342

USDC No. 3:11-CV-346

No. 15-40704

USDC No. 3:11-CV-347

USDC No. 3:11-CV-348

Before STEWART, Chief Judge, and DAVIS and GRAVES, Circuit Judges.

PER CURIAM:*

Sixteen Texas state prisoners filed separate civil rights complaints in state court against the Texas Department of Criminal Justice, Correctional Institutions Divisions (TDCJ) and Correctional Officers Santos Montez and Angel Davila. The cases were removed to federal court and consolidated by the district court for pretrial and, if needed, trial purposes. The district court granted the defendants' motions for summary judgment in part, dismissing the claims against Officer Montez and the TDCJ. The court also dismissed the claims as moot of ten plaintiffs no longer housed at the Terrell Unit. The plaintiffs whose claims were dismissed as moot were identified in the court's memorandum opinion as Jerold Williams, Alejandro Avila, Joshua Mazique Burton, Xavier Cooper, Benjamin Martin, Benjamin Vallie, Jr., Billy Wayne Morgan, Jerome Degree, Leon Harper, and Eliazar M. Rincon. Another plaintiff, Troy D. Rector, was dismissed based on information that he had been killed. However, the district court denied the defendants' motion for summary judgment as to claims concerning Officer Davila, finding that the claims against Davila were redressable in the event that the plaintiffs prevailed at trial.

On the same date as its memorandum opinion granting in part and denying in part the motion for summary judgment, the district court entered a "final judgment" dismissing the case with prejudice as moot based on its

* 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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memorandum opinions and orders. In the memorandum opinions and orders, the district court did not dismiss the claims of plaintiffs Julius Timothy Dawson, Nicholas D. Graves, James Earl Sadberry, Antonio Shelvin, and Joseph A. Whitfield.

“This Court must examine the basis of its jurisdiction, on its own motion, if necessary.” *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). Because the claims of five plaintiffs remain pending in the district court, we lack jurisdiction over this appeal. *See* 28 U.S.C. §§ 1291, 1292(a),(b); FED. R. CIV. P. 54(b); *Martin v. Halliburton*, 618 F.3d 476, 481 (5th Cir. 2010); *Briargrove Shopping Ctr. Joint Venture v. Pilgrim Enters., Inc.*, 170 F.3d 536, 538-41 (5th Cir. 1999).

Accordingly, the appeal is DISMISSED for lack of jurisdiction.