

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-20205
Conference Calendar

JACKIE REYNOLDS ET AL.,

Plaintiffs,

MICHAEL GASTON; MICHAEL
KUYKENDALL; CHRISTOPHER HERRING;
JAMES MAYBERRY; LOWELL IVORY,

Plaintiffs-Appellants,

versus

TEXAS DEPARTMENT OF CRIMINAL JUSTICE;
TEXAS BOARD OF CORRECTIONS; WAYNE SCOTT,
DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, INSTITUTIONAL DIVISION; FERNANDO
E. FIGUEROA; DREWRY, Warden; M.B. THALER;
RICHARD JONES; GREGORY SHIRLEY; S. WHEELER;
P. MORALES; GUILLERMO DELAROSA; TERRY L.
PICKETT; BRYAN B. BUCK; JAMES D. HOSEA,
Captain; FRANKIE L. REESCANO; MOORE, Captain;
DARREL M. LUKER; R.R. PEREZ, Badge No. 104;
Individually and Officially, PHARR, Captain;
QUINTINA, Captain, JAMES T. MAYES; MARC H.
RODRIGUEZ; MASSINGILL, Lieutenant; RICHARD B.
JAMES, Sergeant; HERNANDEZ, Sergeant; JACK
H. DEAN, JR.; VALDEZ, Sergeant; MARIA I. LUNA;
J. GUZMAN; MORENO; R. ODEMNI; ROSAS; DIANA R.
LEONARD; R. HEALY, Dr.; D. BLACKBURN; S. LOVE;
ROBERT H. QUADA, JR.; DAMON REDDEN,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-98-CV-3527

December 14, 1999

Before JOLLY, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Michael Gaston, #701377; Michael Kuykendall, #737934; Christopher Herring, #692233; James Mayberry, #797373; and Lowell Ivory, #702233, have filed a motion to dismiss the appeal in this case without prejudice. 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). The appellants are attempting to appeal the order of a magistrate judge. Because the parties have not consented to entry of final judgment by the magistrate judge, the order is not appealable to this court. Trufant v. Autocon, Inc., 729 F.2d 308, 309 (5th Cir. 1984). Thus, this court lacks jurisdiction. The motion to dismiss the appeal is GRANTED, and the appeal is DISMISSED for lack of appellate jurisdiction.

MOTION TO DISMISS APPEAL WITHOUT PREJUDICE GRANTED; APPEAL DISMISSED FOR LACK OF APPELLATE JURISDICTION.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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