IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

F I L E D

February 5, 2010

No. 09-40400

Charles R. Fulbruge III
Clerk

MAX MOUSSAZADEH,

Plaintiff - Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE; BRAD LIVINGSTON,
Solely in His Official Capacity as Executive Director of Texas Department of
Criminal Justice, Correctional Institutions Division; DAVID SWEETEN,
Solely in His Official Capacity as Warden of the Eastham Unit of the Texas
Department of Criminal Justice, Correctional Institutions Division,

Defendants - Appellees

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 3:07-CV-574

Before JOLLY and DENNIS, Circuit Judges, and JORDAN, District Judge.[*]

PER CURIAM:[**]

The district court dismissed this case as moot. Since that time, the
conditions and treatment about which this prisoner complained have
substantially changed, and these changes affect the issues before us. Moreover,

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[*] District Judge, Southern District of Mississippi, sitting by designation.

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 R. 47.5, the court has determined that this opinion should not
be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 09-40400

before we can address the merits of this appeal, there are matters to be brought before the district court that must be addressed by it. We therefore remand for additional proceedings to allow the parties and the district court to further develop the record. Once the work of the district court has been completed, any party may file a supplemental notice of appeal, which will be considered along with the notice of appeal herein. In any event, once the district court has ruled, the parties should advise the clerk of this court whether this appeal has or has not been mooted by the district court's action. Upon remand, however, this panel does not retain jurisdiction over this or subsequent appeals in this case.

REMANDED.