

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

June 30, 2008

\_\_\_\_\_  
No. 06-10753  
Summary Calendar  
\_\_\_\_\_

Charles R. Fulbruge III  
Clerk

STEPHEN ALLARD

Plaintiff-Appellant

v.

QUINLON PEST CONTROL COMPANY, INC; MICHAEL VICE; RANDY  
WHITE; CURTIS NEEL; DON ANDERSON

Defendants-Appellees

\_\_\_\_\_  
Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:05-CV-584  
\_\_\_\_\_

Before KING, DAVIS, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Stephen Allard, Texas prisoner # 1071335, appeals the district court's sua sponte dismissal of his civil rights suit challenging conditions at the Hunt County Jail for failure to exhaust available administrative remedies. Under *Jones v. Bock*, 549 U.S. 199 (2007), the district court erred in dismissing the complaint at this stage in the proceedings. We vacate that dismissal and remand for further proceedings.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Allard has not shown that the district court erred in denying class certification. See *McGrew v. Texas Bd. of Pardons & Paroles*, 47 F.3d 158, 162 (5th Cir. 1995). As such, he has also not shown that the district court erred by not appointing an attorney for the class.

We do not address Allard's argument, raised for the first time on appeal, that the magistrate judge should have recused herself. See *Clay v. Allen*, 242 F.3d 679, 681 (5th Cir. 2001).

AFFIRMED in part, VACATED AND REMANDED in part.