

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

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No. 16-11597  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

March 30, 2017

Lyle W. Cayce  
Clerk

SAMUEL ALVIN ASHLEY, JR.,

Plaintiff-Appellant

v.

UNITED STATES OF AMERICA,

Defendant-Appellee

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:14-CV-2654

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Before JONES, WIENER, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Plaintiff-Appellant Samuel Alvin Ashley, Jr. sued the United States of America (the “government”) under the Federal Tort Claims Act (“FTCA”) for injuries allegedly resulting from the actions or inactions of non-professional personnel occurring while he was a prisoner in the Federal Correctional Institution at Seagoville, Texas. His complaint boils down to an assertion under the Eighth Amendment of the United States Constitution for cruel and

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 16-11597

unusual punishment, a late classification of his action which started as a Texas personal injury claim. In its lengthy and detailed analysis of the jurisdictional implication of Ashley's action, the district court concluded that the government correctly relied on the discretionary-function exception to the FTCA, refutation of which was Ashley's burden to bear.

For essentially the same reasons given by the district court, we affirm its grant of the government's motion to dismiss without prejudice for lack of jurisdiction.

AFFIRMED.