

UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 92-2374
Summary Calendar

DAVID RUIZ, ET AL.,

Plaintiffs,

VERSUS

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

VERSUS

JAMES A. COLLINS, Director,
Texas Dept. of Criminal Justice,
Institutional Division,

Defendant-Appellee,

VERSUS

STEVE RAMON,

Movant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
(CA H 78 987)

(December 9, 1992)

Before JOLLY, DUHÉ, and BARKSDALE, Circuit Judges.

PER CURIAM:¹

¹ Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Appellant, a Texas state prisoner, filed a complaint alleging six causes of action claiming that conditions and practices in the Texas penal system violate various Ruiz decrees. He seeks declaratory and injunctive relief and relief under § 1983. The district court correctly considered his complaint an effort to intervene in the Ruiz litigation. The court denied the motion finding that Appellant was not entitled to seek declaratory or injunctive relief which implicated the Ruiz decrees in an individual lawsuit. It noted that he could seek legal redress in a separate § 1983 action for individual damages suffered by him, and ordered his claims for such damages severed and transferred out of the Ruiz court. He appeals and we affirm.

Decisions concerning efforts to intervene of right are reviewed de novo. Ceres Gulf v. Cooper, 957 F.2d 1199, 1202 (5th Cir. 1992). To intervene of right, Appellant must meet the requirements of Federal Rules of Civil Procedure 24(a). New Orleans Public Service, Inc. v. United Gas Pipeline Co., 732 F.2d 452, 463 (5th Cir.) (en banc), cert. denied, 469 U.S. 1019 (1984). He does not contest the ability of counsel for the plaintiff class, or the ability of the plaintiff class itself, to manage his case. Nor can the Ruiz rulings form the basis for a § 1983 claim because those rulings do not create "rights, privileges, or immunities secured by the Constitution and laws." Green v. McKaskle, 788 F.2d 1116, 1122 (5th Cir. 1986). To allow individual suits for equitable relief from allegedly unconstitutional Texas prison conditions could interfere with the orderly administration of the

class action and risk inconsistent adjudications. Gillespie v. Crawford, 858 F.2d 1101, 1103 (5th Cir. 1988) (en banc).

Additionally, Appellant's individual suit need not be heard by the Ruiz court since any relief to which he may be entitled under § 1983 will not be based upon the Ruiz decrees.

AFFIRMED.