

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-5326  
Conference Calendar

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BARRY M. WION,

Plaintiff-Appellant,

versus

CHARLES MARTIN, Etc., ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 92-CV-33  
- - - - -

(May 17, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Barry Wion's claim praying for an injunction relieving him of conditions of a special penalty cell restriction is moot because he is no longer subject to such restriction. His return thereto will occur if all three of the following circumstances occur: if he is again assigned to work in the fields and if he refuses the assignment and if prison officials choose to punish him by placing him in a special penalty cell. This is triple speculation. See City of Los Angeles v. Lyons, 461 U.S. 95, 109, 103 S. Ct. 1660, 75 L. Ed. 2d 675 (1983); Bailey v. Southerland,

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\* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

821 F.2d 277, 279 (5th Cir. 1987).

We cannot determine whether Wion's claim is covered by the December 1992 final judgment in Ruiz\*\* because that judgment is not in the record on appeal. See Powell v. Estelle, 959 F.2d 22, 26 (5th Cir.), cert. denied, 113 S. Ct. 668 (1992). Furthermore, we need not reach the Ruiz issue because the claim is moot.

AFFIRMED.

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\*\*Ruiz v. Estelle, 503 F. Supp. 1265 (S.D. Tex. 1980), aff'd in part and vacated in part, 679 F.2d 1115, amended in part and vacated in part, 688 F.2d 266 (5th Cir. 1982), cert. denied, 460 U.S. 1042 (1983).