

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40681
Conference Calendar

RODNEY L. TURNER Et Al.,

Plaintiffs-Appellants,

versus

TEXAS DEPARTMENT OF
CRIMINAL JUSTICE Et Al.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:94-CV-33
- - - - -

(January 27, 1995)

Before POLITZ, Chief Judge, and HIGGINBOTHAM and DeMOSS,
Circuit Judges.

PER CURIAM:*

Rodney L. Turner, Leonard E. Turner, and Charles Warner appeal the district court's dismissal of their civil rights complaint filed under 42 U.S.C. § 1983 which asserted that two policy changes effected by the Texas Department of Criminal Justice Board (Board) violated the Ex Post Facto Clause of the United States Constitution. Specifically, the plaintiffs alleged that the new practice of giving inmates \$100 "gate-money" upon release, as opposed to \$200, and a new policy prohibiting the

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

restoration of forfeited good-time credits, affecting the determination of parole eligibility, are unconstitutional.

The plaintiffs' claims are not yet ripe. The plaintiffs did not in the district court and do not on appeal allege that the changed regulations have been applied or will apply to them. Thus, they have not demonstrated a realistic danger of sustaining a direct injury. See Cinel v. Connick, 15 F.3d 1338, 1341 (5th Cir. 1994), cert. denied, 115 S. Ct. 189 (1994); Babbitt v. United Farm Workers Nat'l Union, 442 U.S. 289, 297-98, 99 S. Ct. 2301, 60 L. Ed. 2d 895 (1979). Persons with "imaginary" or "speculative" fears are not to be accepted as appropriate plaintiffs. Babbitt, 442 U.S. at 298.

The plaintiffs are complaining of a speculative fear. Their suit is not ripe for review. Therefore, we VACATE and REMAND with instructions that the district court dismiss the matter for want of standing.

VACATED AND REMANDED.