

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-20124  
Summary Calendar

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WISTING FIERRO RUIZ;

Plaintiffs-Appellants,

versus

UNITED STATES OF AMERICA, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-94-CV-1353  
- - - - -

December 16, 1997

Before DUHE', DeMOSS and DENNIS, Circuit Judges.

PER CURIAM:\*

Wistang Fierro Ruiz, federal prisoner No. 59534-079, appeals the district court's grant of summary judgment in favor of the defendants. Ruiz contends that the district court applied erroneous legal standards and that it denied him an opportunity to engage in discovery and to file an opposition to summary judgment. We have reviewed the record and Ruiz' brief and AFFIRM for essentially the reasons set forth by the district court.

Ruiz v. United States, No. H-94-1353 (S.D. Tex. Nov. 26, 1996,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

May 21, 1996, and Sept. 21, 1994). Although we agree with Ruiz' arguments concerning the appropriate standard of review of his allegations concerning overcrowded conditions at the Montgomery County Jail, we HOLD that Ruiz failed to rebut the defendants' summary judgment evidence that the jail was not unconstitutionally overcrowded. Scott v. Moore, 114 F.3d 51, 53 (5th Cir. 1997); Little v. Liquid Air Corp., 37 F.3d 1069, 1075 (5th Cir. 1994) (en banc).

Ruiz moves the court for appointment of counsel. That motion is DENIED.

AFFIRMED. MOTION FOR APPOINTMENT OF COUNSEL DENIED.