

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-40983
Conference Calendar

DANIEL JOHNSON; SAMUEL G. NEWTON; LARRY DOUGLAS,

Plaintiffs-Appellants,

versus

DAVID STACKS, Senior Warden, individually and in his official capacity; J.E. ALFORD, former Senior Warden and presently Regional Director, individually and in his official capacity; GARY JOHNSON, Director of Texas Department of Criminal Justice, Institutional Division, individually and in his official capacity; WAYNE SCOTT, Executive Director, individually and in his official capacity; TERESA MCKNIGHT, Correctional Officer, individually and in her official capacity; JEREMIAH DAVIS, Correctional Officer, individually and in his official capacity; JAMES DEFRANCE, Correctional Officer, individually and in his official capacity,

Defendants-Appellees.

Appeals from the United States District Court
for the Eastern District of Texas
USDC No. 9:01-CV-56

December 11, 2001

Before HIGGINBOTHAM, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Daniel Johnson, Texas prisoner #274157, Samuel G. Newton, III, Texas prisoner #477341, and Larry Douglas, Texas prisoner #504213, appeal from the denial of their motions for a preliminary injunction against what they allege is retaliation by

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

prison officials. The denial of their motions was not an abuse of discretion. *Lakedreams v. Taylor*, 932 F.2d 1103, 1107 (5th Cir. 1991). Johnson, Newton, and Douglas have not carried their "heavy burden" of showing that they likely will prevail on the merits of their claims. See *Enter. Int'l v. Corporacion Estatal Petrolera Ecuatoriana*, 762 F.2d 464, 472 (5th Cir. 1985). We express no opinion on the ultimate determination of the claims of Johnson, Newton, and Douglas on their merits. The requests for mandamus relief and to expedite the appeal are DENIED.

We note that Newton and Douglas were added as plaintiffs through Johnson's amendment of right. See FED. R. CIV. P. 15(a). Additionally, we note that the district court has yet to rule on the magistrate judge's recommendation that Johnson's claims be dismissed for failure to exhaust administrative remedies.

AFFIRMED.