United States Court of Appeals
for the Fifth Circuit

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No. 19-40559

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Michael Garrett,

Plaintiff—Appellant,

versus

Bobby Lumpkin, Director, Texas Department of
Criminal Justice, Correctional Institutions Division,

Defendant—Appellee.

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Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:13-CV-70

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Before Owen, *Chief Judge*, and Graves and Ho, *Circuit Judges*.

Per Curiam:*

In 2013, plaintiff-appellant and Texas inmate Michael Garrett filed a
pro se complaint against the Director of the Texas Department of Criminal
Justice ("TDCJ") alleging a policy of sleep deprivation in violation of the
Eighth Amendment at the McConnell Unit in Beeville, where he was housed.

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* Pursuant to 5th Circuit Rule 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opinion should not be published and is not precedent except under the limited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 Circuit Rule 47.5.4.

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He now appeals an adverse final judgment following a bench trial. The district court concluded that the sleep schedule at the McConnell Unit did not violate the Eighth Amendment because the facility's sleep schedule is reasonably related to legitimate penological purposes, and because Garrett had not proven that his sleep deprivation had caused him any physical injury. Before we can reach the merits of the appeal, however, we must examine whether this case is moot. On January 7, 2021, counsel for the TDCJ informed us that, two days prior, she learned that Garrett had been transferred to the Estelle Unit in Huntsville, another prison facility within the TDCJ, on February 17, 2020. As we do not presently have the facts necessary to determine mootness, we remand to the district court to determine whether Garrett is similarly being deprived of sleep at the Estelle Unit and, if so, whether that deprivation violates the Eighth Amendment.

This matter is hereby REMANDED.