

October 8, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-20097
Summary Calendar

HERMAN PENA

Plaintiff - Appellant

v.

J. PENA

Defendant - Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-00-CV-3471

Before KING, Chief Judge, and DAVIS and BARKSDALE, Circuit
Judges.

PER CURIAM:*

Herman Peña appeals the summary judgement dismissal of his
42 U.S.C. § 1983 action alleging that he was improperly beaten
while incarcerated. As he has failed to offer any evidence or
allegation of injury, see Little v. Liquid Air Corp., 37 F.3d
1069, 1075 (5th Cir. 1994) (en banc), the district court properly
granted the defendant's motion for summary judgment. See Siglar
v. Hightower, 112 F.3d 191, 193 (5th Cir. 1997) (the defendant
must allege more than a de minimis injury); 42 U.S.C. § 1997e(e).

AFFIRMED; motion for appointment of counsel DENIED.

* 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that this opinion should not be published and is not precedent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.