

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

FILED

March 28, 2007

No. 07-70007

ROY LEE PIPPIN

Charles R. Fulbruge III
Clerk

Plaintiff - Appellant

v.

NATHANIEL QUARTERMAN; JOHN DOE, Warden, TDCJ-ID, Walls Unit; JOHN
DOE, Executioner, TDCJ-ID, Walls Unit; RICK PERRY, Governor,
State of Texas

Defendants - Appellees

Appeal from the United States District Court for the
Southern District of Texas, Houston
H007-0982

Before KING, HIGGINBOTHAM, and PRADO, Circuit Judges.

PER CURIAM:*

Plaintiff-appellant Roy Lee Pippin is scheduled to be
executed by the State of Texas on March 29, 2007.

Pippin was convicted of murdering more than one person
during the same criminal transaction and murdering one of the
victims during the course of a kidnapping. Pippin was sentenced

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this opinion should not be published and is not precedent except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

to death. The Texas Court of Criminal Appeals affirmed his conviction and sentence. Pippin v. State, No. 72,252 (Tex. Crim. App. May 21, 1997). Pippin unsuccessfully petitioned for state and federal habeas corpus relief. See generally Pippin v. Dretke, 434 F.3d 782 (5th Cir. 2005), cert denied, 127 S. Ct. 351 (2006).

Pippin, acting pro se, filed an action in district court on March 23, 2007, challenging the combination of drugs used by the State of Texas to administer lethal injections. Pippin asserted that the drugs may paralyze but not produce unconsciousness, constituting cruel and unusual punishment. The district court dismissed Pippin's complaint for failure to state a claim upon which relief can be granted, holding that Pippin was dilatory in raising his challenge to the drug combination used. Pippin v. Quarterman, No. H007-0982 (S.D. Tex. Mar. 26, 2007). We affirm the district court's final judgment entered March 26, 2007, for essentially the reasons given in its Memorandum and Order. See Harris v. Johnson, 376 F.3d 414 (5th Cir. 2004).

AFFIRMED. Pippin's motion for a stay of execution is DENIED. The mandate shall issue forthwith.