

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-40952
Conference Calendar

OSCAR ORDAZ,

Plaintiff-Appellant,

versus

LELAND HEUSZEL, Assistant Warden,
Eastham Unit of the Texas Dep't
of Criminal Justice, ET AL.,

Defendants,

IOANE SATELE, Correctional Officer,
Eastham Unit of the Texas Dep't
of Criminal Justice; KENDRICK
ANDERSON, Correctional Officer,
Eastham Unit of the Texas Dep't
of Criminal Justice,

Defendants-Appellees.

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Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 9:94-CV-116
- - - - -

April 10, 1998

Before JOLLY, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:*

Oscar Ordaz, Texas state prisoner # 552601, argues that the jury erred in determining that the defendant prison guards did not subject him to the excessive use of force.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Because Ordaz failed to move for a judgment as a matter of law prior to or following the jury's verdict, we have reviewed the record for plain error. Phillips v. Frey, 20 F.3d 623, 627 (5th Cir. 1994). Ordaz is asking the court to consider the sufficiency of the evidence supporting the verdict. The sufficiency of the evidence is not subject to plain error review. Id. Further, it is apparent from Ordaz's argument that there was evidence presented that supports the jury's verdict in the defendants' favor and, therefore, the judgment did not result in a manifest miscarriage of justice. Id.

The appeal is frivolous. It is DISMISSED. 5th Cir. R. 42.2.