

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-50969
Summary Calendar

WILLIAM S. HOLLOWAY,

Plaintiff-Appellant,

versus

C. MASSEY,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Texas
(SA-96-CV-889)

June 10, 1999

Before POLITZ, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

William S. Holloway, now Texas prisoner # 364198, appeals *pro se* the adverse summary judgment in his action against C. Massey brought under the Fair Labor Standards Act.

As is more than well-established, we review a summary judgment *de novo*, applying the same standard as the district court. *E.g.*, ***OHM Remediation Services v. Evans Cooperage Co., Inc.***, 116 F.3d 1574, 1579 (5th Cir. 1997). Such judgment is appropriate where "there is no genuine issue as to any material fact and ... the moving party is entitled to a judgment as a matter of law." FED. R. CIV. P. 56(c).

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The parties consented to proceeding before the magistrate judge. Holloway contends primarily that the court erred in holding that he was not an employee of Massey for FLSA purposes. He may also be asserting a state law claim for unpaid wages. In any event, and pursuant to our review of the record, we affirm for essentially the reasons stated by the district court. ***Holloway v. Massey***, No. SA-96-CA-889-PMA (W.D. Tex. Sept. 25, 1998).

AFFIRMED