

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40941
Conference Calendar

BRUCE PETTY,

Plaintiff-Appellant,

versus

GARY L. JOHNSON, DIRECTOR, TEXAS DEPARTMENT
OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION;
A. J. COLLINS,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. G-96-CV-707

August 25, 1999

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

PER CURIAM:*

Bruce Petty, Texas prisoner # 541160, appeals the district court's dismissal of his 42 U.S.C. § 1983 suit as frivolous. Petty argues, as he did in the district court, that the Texas Department of Criminal Justice's policy of allowing female prison guards to be present when male prisoners are showering and other times when male prisoners are naked is cruel and unusual punishment and violates his constitutional right to privacy.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 presence of female prison guards for security reasons on those occasions when male prisoners are naked is not a constitutional violation. See Letcher v. Turner, 968 F.2d 508, 510 (5th Cir. 1992). Petty's claim lacked an arguable basis in law, and the district court did not abuse its discretion in dismissing the complaint as frivolous. See Siqlar v. Hightower, 112 F.3d 191, 193 (5th Cir. 1997).

AFFIRMED.