THE SUPREME COURT OF THE
UNITED STATES OF AMERICA

OCTOBER 16, 2026

MARTIN PEÑA Jr,
02399103

VS.

BOERNE POLICE DEPT FNU
ESTRADA, MIRANDA, FUENTES, PEREDA

§
§
§
§
§ No. 25-50186 USDC No.
§ 5:23-CV-00435
§
§
§

MOTION FOR 60-DAY EXTENSION TO
FILE THE WRIT OF CERTIORARI

COMES NOW, MARTIN PEÑA Jr, PRO SE LITIGANT:
TO THE HONORABLE JUDGES OF THE UNITED STATES
SUPREME COURT. THE UNITED STATES COURT OF APPEALS
RULED AGAINST ME AFFIRMING THE DISMISSAL OF MY
CIVIL RIGHTS LAWSUIT FOR EXCESSIVE FORCE ETC....
ON AUGUST 5, 2026. I SUBMITTED A PETITION FOR
REHEARING EN BANC WITHIN THE 14 DAYS ALLOTED FROM
THE TIME I RECEIVED THE RULING AND IT WAS DENIED
AS UNTIMELY. I ALSO SENT A MOTION FOR AN EXTENSION
TO FILE MY WRIT OF CERTIORARI AND I WAS TOLD
THAT THEY COULDN'T AND I WOULD NEED TO CONTACT
THE SUPREME COURT. AS WELL AS OBTAINING

RECEIVED
OCT 28 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

AND GUIDELINES FOR THE WRIT OF CERTIORARI. I KNOW I HAVE 90 DAYS TO SUBMIT THE WRIT OF CERTIORARI FROM THE DATE OF THE RULING BY THE UNITED STATES COURT OF APPEALS. IM ALMOST CERTAIN THAT THE WRIT OF CERTIORARI WENT TO THEM. THEY ARE TELLING ME OTHERWISE. I ALSO READ THAT I HAVE UNTIL 10 DAYS BEFORE THE 90 DAY DEADLINE TO ASK FOR A 60 DAY EXTENSION, I SENT THIS SAME REQUEST TO THE UNITED STATES COURT OF APPEALS. I AM NOW RE-REQUESTING A 60 DAY EXTENSION FOR MORE TIME TO SUBMIT THE WRIT OF CERTIORARI, CHALLENGING THE RULINGS OF THE LOWER COURTS. I AM NOT AN ATTORNEY, I FILED THIS SUIT ON APRIL 6, 2023. I HAVE LITIGATED FOR MYSELF AND I THINK IVE DONE WELL FOR MYSELF. IVE REQUESTED HELP WITH NO AVAIL AS FAR AS COUNSEL. I AM ALSO REQUESTING THE RULES AND A TEMPLATE FOR THE WRIT OF CERTIORARI. MY RESOURCES ARE LIMITED AND I NEED MORE TIME TO PUT THIS WRIT TOGETHER. PLEASE CONSIDER MY DILEMMA AT THIS STAGE OF LITIGATION. THANK YOU FOR YOUR TIME AND CONSIDERATION.

RESPECTFULLY SUBMITTED,
MARTIN PEÑA JR.

PRO SE LITIGANT

UNSWORN DECLARATION

MY NAME IS MARTIN PENA JR., MY DATE OF BIRTH IS AUGUST 17, 1975, AND MY INMATE IDENTIFYING NUMBER IF ANY IS, 02399105. I AM CURRENTLY INCARCERATED IN THE SPRINGFELLOW UNIT IN ROSHARON, HARRIS COUNTY, TEXAS 77583. I DECLARE UNDER PENALTY OF PERJURY THAT THE CONTENTS OF THIS MOTION ARE TRUE AND CORRECT AND THE FACTS STATED IN THIS MOTION ARE ALSO TRUE AND CORRECT. EXECUTED ON THIS 16TH DAY OF OCTOBER 2026.

SIGNATURE OF DECLARANT: _____

A-M SPRINGFELLOW UNIT
1200 FM 65
ROSHARON, TX 77583

United States Court of Appeals for the Fifth Circuit

No. 25-50186
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
August 5, 2026
Lyle W. Cayce
Clerk

MARTIN PENA, JR.,

Plaintiff—Appellant,

versus

E. FUENTES, *Jailer, Kendall County Sheriff's Office, Individual and Official Capacity*; E. PEREDA, *Corporal, Jailer, Kendall County Sheriff's Office, Individual and Official Capacity*; ALEXANDRA MIRANDA,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:23-CV-435

Before DAVIS, STEWART, and DUNCAN, *Circuit Judges*.

PER CURIAM:*

Martin Pena, Jr., Texas prisoner # 2399103, appeals the dismissal of his civil complaint, which he filed pursuant to 42 U.S.C. §§ 1983, 1985, 1986, and 1988, claiming that his First, Fourth, Fifth, Eighth, and Fourteenth Amendment rights were violated. He argues that crucial evidence related to

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

his excessive force claim was withheld; the documentary evidence submitted by the defendants is false and does not match the jail and body camera video evidence; he never resisted the officers or kicked an officer; an officer incorrectly stated in a declaration that another officer removed his handcuffs in the sallyport before the first tasing; his belligerence did not justify the use of excessive force; and it is unconstitutional to tase someone in handcuffs.

Pena does not challenge the district court's dismissal of his claims that the defendants violated his rights under § 1988 or the First, Fifth, and Eighth Amendments. He likewise fails to brief any challenge to the district court's dismissal of his claims of false arrest and malicious prosecution; a conspiracy to violate his constitutional rights under § 1985 and § 1986; and his Fourteenth Amendment excessive force claim. By his failure to brief, he has abandoned these issues. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993).

As for the summary judgment dismissal of Pena's Fourth Amendment excessive force claim, Pena fails to show a genuine dispute as to any material fact. *See Cloud v. Stone*, 993 F.3d 379, 383 (5th Cir. 2021); *Carnaby v. City of Houston*, 636 F.3d 183, 187 (5th Cir. 2011). The district court thus did not err in determining that the defendants were entitled to qualified immunity and in granting summary judgment. *See id.* at 383-84; *see also Craig v. Martin*, 49 F.4th 404, 413-17 (5th Cir. 2022); *Betts v. Brennan*, 22 F.4th 577, 583 (5th Cir. 2022).

AFFIRMED.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

August 05, 2026

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing or Rehearing En Banc

No. 25-50186 Pena v. Fuentes
USDC No. 5:23-CV-435

Enclosed is a copy of the court's decision. The court has entered judgment under Fed. R. App. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

Fed. R. App. P. 39 through 41, and Fed. R. App. P. 39, 40, and 41 govern costs, rehearings, and mandates. **Fed. R. App. P. 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following Fed. R. App. P. 40 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. Fed. R. App. P. 41 provides that a motion for a stay of mandate under Fed. R. App. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under Fed. R. App. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari**. Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

Sincerely,

LYLE W. CAYCE, Clerk

Rebecca Jeanfreau

By: _____
Rebecca L. Jeanfreau, Deputy Clerk
504-310-7645

Enclosure(s)

Mr. Jason Eric Magee
Mr. Martin Pena Jr.