

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40442
Conference Calendar

WILLIAM DEXTER WHITE,

Plaintiff-Appellant,

versus

PATRICK ROSS, Captain of
the Eastham Unit, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:93-CV-200

- - - - -
(November 15, 1994)

Before JONES, DUHÉ, and PARKER, Circuit Judges.

PER CURIAM:*

The Court addresses only those issues for which Texas prisoner William Dexter White has presented an appellate argument. Price v. Digital Equip. Corp., 846 F.2d 1026, 1028 (5th Cir. 1988); see Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993); Fed. R. App. P. 28(a).

No error occurred when White's prison classification file was admitted as summary judgment evidence. See Gulf States Utilities Co. v. Ecodyne Corp., 635 F.2d 517, 519 (5th Cir. Unit

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

A Jan. 1981). White's argument concerning the alleged violation of a Texas evidentiary rule is irrelevant. See United States v. Moore, 970 F.2d 48, 48-49 (5th Cir. 1992); see also San Jacinto Sav. & Loan v. Kacal, 928 F.2d 697, 700 (5th Cir. 1991). The Court will not consider White's argument that the district court erred by failing sua sponte to sanction the defendants under Fed. R. Civ. P. 11. Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991); see St. Amant v. Bernard, 859 F.2d 379, 385 (5th Cir. 1988).

"Summary judgment is reviewed de novo, under the same standards the district court applies to determine whether summary judgment is appropriate." Amburgey v. Corhart Refractories Corp., 936 F.2d 805, 809 (5th Cir. 1991). Summary judgment is proper when viewing the evidence in the light most favorable to the non-movant, "there is no genuine issue as to any material fact and . . . the moving party is entitled to judgment as a matter of law.'" Id. (quoting Fed. R. Civ. P. 56(c)).

The summary judgment evidence showed that the challenged prison disciplinary proceedings were not arbitrary and capricious because there was evidence to support both the charges against White and the initial finding of guilt. Therefore, no constitutional violation occurred, and the defendants were entitled to summary judgment. Stewart v. Thiqpen, 730 F.2d 1002, 1005-06 (5th Cir. 1984).

White's motion to strike the appellees' brief is DENIED AS FRIVOLOUS.

AFFIRMED.