

July 2, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 03-10026
Summary Calendar

WINDELL EUGENE HENRY; ET AL.,

Plaintiffs,

WINDELL EUGENE HENRY,

Plaintiff-Appellant,

versus

WAYNE SCOTT, Director; TOM BAKER, Director;
ALLEN POLANSKY,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:01-CV-1585-G

Before REAVLEY, SMITH and STEWART, Circuit Judges.

PER CURIAM:*

Windell Eugene Henry, formerly Texas prisoner # 935525, appeals the district court's dismissal without prejudice of his 42 U.S.C. § 1983 civil-rights suit in which Henry alleged that four prison law libraries were inadequate and deprived inmates of their constitutional right of access to court. The district

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court dismissed the suit on the defendants' motion pursuant to 28 U.S.C. § 1997e for failure to exhaust administrative remedies.

It is unnecessary to address the exhaustion issues that Henry asserts on appeal because Henry has stated, and the record reflects, that he was released from custody during the pendency of this suit. Accordingly, Henry's conditions-of-confinement suit, which sought only declaratory and injunctive relief, is moot, and the appeal must be dismissed accordingly. See Dailey v. Vought Aircraft Co., 141 F.3d 224, 227 (5th Cir. 1998); Rocky v. King, 900 F.2d 864, 867 (5th Cir. 1990). It is irrelevant that Henry filed his lawsuit as a purported class action, because he never sought class certification in the district court. See Rocky, 900 F.2d at 869 (purported class action is moot when the named plaintiff's individual claim became moot before class certification).

APPEAL DISMISSED AS MOOT.