

January 26, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-40732
Summary Calendar

SAMUEL ORELLANA,

Plaintiff-Appellant,

versus

JAMES B. ZELLAR, SR., Warden;
Unidentified SQUIER, Sargent;
EARL A. BRIDGEFORTH, Correctional
Officer III; BYRONE L GRANT,
Correctional Officer; BRENDA D.
SPITALERI, Correctional Officer,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
(9:03-CV-91-HWM)

Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Plaintiff-Appellant Samuel Orellana, Texas prisoner # 1008987, appeals the summary judgment dismissal of his 42 U.S.C. § 1983 complaint. We affirm.

The district court did not err in its summary-judgment, qualified-immunity determination that Orellana had not established the violation of a clearly established constitutional right on

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

either his denial-of-access-to-the-courts or retaliation claims because he failed to argue or demonstrate that his ability to pursue a "nonfrivolous," "arguable" legal claim was hindered by the defendants' actions. Christopher v. Harbury, 536 U.S. 403, 415 (2002) (citations omitted); see Johnson v. Rodriguez, 110 F.3d 299, 311 (5th Cir. 1997).

Further, the district court did not err in dismissing the claims against defendant Spitaleri pursuant to 42 U.S.C. § 1997e for Orellana's failure to exhaust administrative remedies. Texas has a two-step administrative grievance procedure for state inmates. Wendell v. Asher, 162 F.3d 887, 891 (5th Cir. 1998). The record shows that the grievances filed by Orellana do not mention Spitaleri. Accordingly, Orellana did not exhaust the available administrative remedies regarding his claims against Spitaleri.

AFFIRMED.