United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
May 6, 2024
Lyle W. Cayce
Clerk

No. 23-40612
Summary Calendar

RICKY CLAY JONES,

Plaintiff—Appellant,

versus

BOBBY LUMPKIN, *Director, Texas Department of Criminal Justice, Correctional Institutions Division*; H. M. PEDERSON; S. SANCHEZ, *Assistant Regional Director*,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:23-CV-152

Before ELROD, OLDHAM, and WILSON, *Circuit Judges*.

PER CURIAM:[*]

Ricky Clay Jones, Texas prisoner # 1523892, filed a 42 U.S.C. § 1983 complaint in which he contended that the defendants deprived him of his property, in violation of the Fourteenth Amendment,[1] by illegally

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

[1] In his appeal brief, Jones also raised an Eighth Amendment claim related to the denial of a fan. However, Jones expressly told the magistrate judge at his *Spears* hearing

withdrawing money from his inmate trust account. Jones sued Bobby Lumpkin, Director of the Texas Department of Criminal Justice, alleging that he acted as a municipal policymaker and failed to follow internal policies regarding the withdrawal of inmate funds, and sued two other defendants, alleging that they incorrectly denied his grievances raising the illegal withdrawal issue.

The district court dismissed the § 1983 complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) and 28 U.S.C. § 1915A(b)(1) as frivolous and for failure to state a claim. We review the dismissal *de novo* and apply the standard for dismissals under Federal Rule of Civil Procedure 12(b)(6). *See Carlucci v. Chapa*, 884 F.3d 534, 537 (5th Cir. 2018); *Legate v. Livingston*, 822 F.3d 207, 209–10 (5th Cir. 2016).

As to Jones's claim against Lumpkin, "[i]n order to establish supervisor liability for constitutional violations committed by subordinate employees, a plaintiff must show that the supervisor acted, or failed to act, with *deliberate indifference* to violations of others' constitutional rights committed by their subordinates." *Porter v. Epps*, 659 F.3d 440, 446 (5th Cir. 2011) (internal quotation marks, brackets, and citation omitted). Jones's broad and conclusory allegation that Lumpkin acted as a policy maker within TDCJ is insufficient to state a claim that he affirmatively participated in conduct causing a constitutional violation or that he implemented a policy that caused any violation. *See id.* at 446. Further, any failure by Lumpkin to

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that he was not bringing such a claim. Though "pleadings filed pro se are generally held to less stringent standards than those drafted by lawyers, pro se litigants must still reasonably comply with procedural rules." *Miller v. Lowe's Home Ctrs. Inc.*, 184 F. App'x 386, 389 (5th Cir. 2006). Thus, Jones forfeited his Eighth Amendment argument by not raising it in the district court. *See id.*; *see also Stewart Glass & Mirror, Inc. v. U.S. Auto Glass Discount Ctrs., Inc.*, 200 F.3d 307, 316–17 (5th Cir. 2000) ("It is a bedrock principle of appellate review that claims raised for the first time on appeal will not be considered.").

follow internal TDCJ policies concerning the withdrawal of inmate funds, without more, does not result in a constitutional violation. *See Samford v. Dretke*, 562 F.3d 674, 681 (5th Cir. 2009). In any event, because Texas affords Jones an adequate post-deprivation remedy for the confiscation of the funds in his inmate trust account, his claim is not cognizable under § 1983. *See Hudson v. Palmer*, 468 U.S. 517, 533 (1984); *see also Hawes v. Stephens*, 964 F.3d 412, 418 (5th Cir. 2020).

As to the other two defendants, because Jones has no right to either the adequacy or the result of prison administrative grievance procedures, his claims related to the denial of his grievances lack merit. *See Geiger v. Jowers*, 404 F.3d 371, 374 (5th Cir. 2005) (per curiam); *Eason v. Thaler*, 73 F.3d 1322, 1325–26 (5th Cir. 1996). Accordingly, the district court did not err by dismissing Jones's § 1983 complaint as frivolous and for failure to state a claim. Jones's motion to amend the caption and motion to enter new evidence on appeal are denied.

The district court's dismissal counts as a strike for purposes of 28 U.S.C. § 1915(g). *Adepegba v. Hammons*, 103 F.3d 383, 388 (5th Cir. 1996); *abrogated in part on other grounds by Coleman v. Tollefson*, 575 U.S. 532, 537 (2015); *see also Prescott v. UTMB Galveston Tex.*, 73 F.4th 315, 319–20 (5th Cir. 2023). Jones is cautioned that if he accumulates three strikes, he will not be able to proceed in forma pauperis in any civil action or appeal that is filed while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. *See* 28 U.S.C. § 1915(g).

AFFIRMED; MOTIONS DENIED; SANCTION WARNING ISSUED.