

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-1959  
Summary Calendar  
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DWIGHT C. MOORE, a/k/a  
Chris Morrison, and  
CARL RAVEN,

Plaintiffs-Appellants,

versus

TRAVIS MCPHERSON,

Defendant-Appellee.

S)))))))))Q

Appeal from the United States District Court for the  
Northern District of Texas  
(5:92 CV 202 C)  
S)))))))))Q  
(September 27, 1993)

Before GARWOOD, JONES, and EMILIO M. GARZA, Circuit Judges.\*

PER CURIAM:

Proceeding *pro se* and *in forma pauperis*, plaintiffs-appellants  
Dwight C. Moore, a/k/a Chris Morrison, and Carl Raven jointly filed  
the instant civil rights action. The complaint makes several

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\* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

allegations: (1) denial of access to the legal system; (2) denial of opportunity to conduct religious services; (3) denial of adequate medical care; (4) denial of good time credits; and (5) lack of parole counselors.

The case was referred to a magistrate judge who, after reviewing the pleadings, ordered the plaintiffs to amend their complaint to include more details regarding their various claims. The magistrate judge granted the plaintiffs thirty days from the date of the order to file an amended pleading under Fed. R. Civ. P. 15(d). The order was dated September 11, 1992. The magistrate judge's order also pointed out the specific factual shortcomings of the complaint.

On October 28, 1992, the district court noted that "Plaintiffs have wholly failed to file any amended pleadings." The court then dismissed the action without prejudice "for the failure of the Plaintiffs to demonstrate (1) a realistic chance of success, and (2) [that] they have a claim for relief which has an arguable basis in law and in fact."

The plaintiffs did, however, file an amended complaint on October 5, 1992, within the thirty days allotted by the magistrate judge. The amendments to the complaint are comprehensive, timely filed, and evince a clear intent on the part of the plaintiffs to comply with the magistrate judge's order. The order of the district court dismissing the complaint makes no mention of these amendments, and its ruling appears to have been made without knowledge of them.

Accordingly, the district court's order of dismissal is vacated and the cause is remanded for reconsideration, including consideration of plaintiff-appellant's amended complaint filed October 5, 1993.

VACATED and REMANDED