

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 92-4812
Summary Calendar

Willie Paul White,

Plaintiff-Appellant,

VERSUS

James A. Collins, Director,
Texas Dept. of Criminal Justice, Institutional Division, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
For the Eastern District of Texas
(CA9-92-43)

March 2, 1993

Before THORNBERRY, DAVIS, and SMITH, Circuit Judges.

THORNBERRY, Circuit Judge*:

Willie Paul White filed a civil rights suit against the Texas Department of Criminal Justice and others. He appeals the dismissal of his § 1983 action. We affirm.

Facts and Prior Proceedings

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Texas Prisoner Willie Paul White, proceeding pro se and **in form pauperis**, sued the Texas Department of Criminal Justice, Institutional Division and several of its personnel under 28 U.S.C. § 1983. Basically, White complains of an incident wherein he was asked by a corrections officer to show his special meal card to the "boss" (another correctional officer). In his complaint, White explains that because the term "boss" is reminiscent of slavery and he is greatly offended by the use of the term in the prison, he refused to show the special meal card to the corrections officer. He was subsequently ordered to return to his cell. During the return to his cell, he complained to other officers and inmates of his treatment and as a result was then handcuffed and confined in the pre-hearing detention area. White alleges that the handcuffs were very tight and that the corrections officer jerked on the handcuffs. While in the pre-hearing detention area, White asked for his lunch, and it was denied because by this time, lunch was no longer being served. White alleges that all of the officers conspired against him and that the denial of lunch constituted cruel and unusual punishment. White was subjected to disciplinary proceedings because of his behavior during these incidents. He claims he was subjected to false disciplinary charges and was placed in prehearing detention without due process.

The magistrate judge held a hearing pursuant to **Spears v. McCotter**, 766 F.2d 179 (5th Cir. 1985). The magistrate judge recommended that White's complaint about due process in the disciplinary hearing be dismissed without prejudice, subject to re-

filing so that White could exhaust habeas remedies. The magistrate further recommended dismissal of all the other claims as frivolous. Over White's objections, the district court adopted the magistrate judge's report and recommendations. White appeals the district court's decision to this Court.

Discussion

After comprehensive review of the record and close attention to the Petitioner's claims, we conclude that they are without merit and decline to address them further.

We note that this Court, in a separate opinion, has already assessed sanctions against the Petitioner. **Willie Paul White v. Annette Strauss, ET AL.**, No. 92-1229 (5th Cir. February 12, 1993) (unpublished opinion). In that case, Petitioner was sanctioned for filing six patently frivolous appeals to this Court in that particular cause of action.¹ While we agree that sanctions are appropriate in this case as well, we elect not to sanction Petitioner at this time. Should the Petitioner bring another frivolous action, he is warned that further sanctions will follow.

CONCLUSION

Accordingly, we affirm.

¹ White was ordered to pay a monetary sanction of \$50.00 before filing any further pleadings either in the district court or in this Court without first obtaining leave of court to do so. The action before us today is not subject to the monetary sanction because it was filed prior to the sanction.