

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 92-7752

(Summary Calendar)

VINCENT EUGENE COMBS,

Plaintiff-Appellant,

versus

RICHARD MARTIN, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Mississippi
(CA H90-0040-W)

(February 17, 1994)

Before JOLLY, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Plaintiff Vincent Eugene Combs, an inmate at the South Mississippi Correctional Institute ("SMCI"), appeals from the magistrate's decision dismissing with prejudice his demands to have the prison provide a non-pork diet to accommodate his practice of Islam.¹ We affirm.

* Local Rule 47.5.1 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

¹ In his brief, Combs also alleged that the district court erred in denying him relief based upon the defendants' failure to

Combs avers that the Moslem religion bars him from eating products containing pork and that the defendants² were not providing him with an adequate pork-free diet. Moreover, Combs alleges that the non-state-employee defendants failed to inform SMCI inmates which products contained pork and intentionally offered Combs products that contained pork under the pretense that these product did not contain pork. Defendant Richard Newsy, however, testified that SMCI inmates were informed what products contained pork and that inmates were served between 2,900 and 3,400 daily calories in non-pork products. Moreover, Newsy explained Valley Food Service prohibited its employees from combining products containing pork with non-pork products.

Combs first allegation on appeal is that the defendants conspired to knowingly deprive him of a pork-free diet, thereby constituting a violation of his First Amendment rights. To the extent Combs seeks monetary damages from the defendant state officials in their official capacities, however, the Eleventh Amendment bars his claim. *See Kahey v. Jones*, 836 F.2d 948, 949 (5th Cir. 1988) (barring the plaintiff's claim that prison officials failed to provide her with a diet specially tailored to

provide inmates with the services of an Islamic chaplain. However, Combs neither argues the facts surrounding nor briefs this allegation on appeal. Accordingly, we refuse to address the issue. *See Morrison v. City of Baton Rouge*, 761 F.2d 242, 244 (5th Cir. 1985).

² The defendants include state employees; Valley Food Service, the company that contracted with the state to provide food for the SMCI inmates; and John Burgess, Susan W. Turner, and Richard Newsy, employees of Valley Food Service.

accommodate her religious beliefs to the extent she sought damages from individual employees of the state).³

To the extent Combs seeks monetary relief from non-state-employee defendants for their adherence to prison policies regarding the serving of pork-free products, we find that such policies are reasonably related to legitimate penological interests and, therefore, valid. See *Turner v. Safley*, 482 U.S. 78, 89, 107 S. Ct. 2254, 2261, 96 L. Ed. 2d 64 (1987); *Scott v. Mississippi Dept. of Corrections*, 961 F.2d 77, 80-82 (5th Cir. 1992) (upholding prison hair-grooming regulations); *Kahey*, 836 F.2d at 950-951 (finding valid a prison's policy for accommodating kosher diets). Thus, Combs may not recover damages from such defendants simply because they complied with valid policies. To the extent Combs seeks monetary relief from non-state-employee defendants for maliciously and intentionally depriving him of a sufficient non-pork diet, the magistrate, after an evidentiary hearing, found that the defendant informed inmates whether a food product was known to contain pork and provided inmates with "non-pork, well nourished daily meals." Moreover, the magistrate found that the defendants could not reasonably project, control, or prevent those rare occasions when inmates were inadvertently served products containing pork without being told of such. We find that these findings are supported by the record and thus are not clearly

³ To the extent his original complaint sought injunctive relief, Combs concedes that the need for such relief is mooted due to his transfer from the SMCI to the custody of the Arkansas Department of Corrections.

erroneous. See *Anderson v. City of Bessemer City*, 470 U.S. 564, 575, 105 S. Ct. 1504, 1512, 84 L. Ed. 2d. 518 (1985).

Combs final contention is that the magistrate erred in denying him sufficient opportunity to conduct discovery with regard to certain parties added as defendants pursuant to Combs's amended complaint. "The trial judge's decision to curtail discovery is granted great deference and, thus, is reviewed under an abuse of discretion standard." *Wichita Falls Office Assocs. v. Banc One Corp.*, 978 F.2d 915, 918 (5th Cir. 1992), *cert. denied*, ___ U.S. ___, 113 S. Ct. 2340, 124 L. Ed. 2d 251 (1993). Because Combs has made only vague assertions that additional discovery was needed and has not indicated with any specificity what relevant evidence he hopes to find with additional discovery, we find that the district court did not abuse its discretion in curtailing discovery. See *Robbins v. Amoco Prod. Co.*, 952 F.2d 901, 907 (5th Cir. 1992).

For the foregoing reasons, we AFFIRM the judgment of the district court.