

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-8283  
Summary Calendar

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MICHAEL KENNEDY,

Plaintiff-Appellant,

versus

JACK GARNER, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Texas  
(W 91 CV 173)

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(March 9, 1993)

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

EDITH H. JONES, Circuit Judge:\*

Pro se prisoner plaintiff Michael Kennedy filed a § 1983 suit against TDC prison officials seeking damages for the alleged wrongful deprivation of access to a prison law library and irregularities in a prison disciplinary proceeding. The magistrate judge held a Spears hearing, ruled on dozens of motions filed by Kennedy, and finally recommended dismissal of his case pursuant to

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

28 U.S.C. § 1915(d). The district court adopted the magistrate judge's ruling, agreeing that Kennedy's case should be dismissed with prejudice for two reasons: there was no merit in his substantive claims, and he supplied forged affidavits to support his claims in court.

Although we agree that Kennedy's substantive claims are meritless, we affirm the district court's judgment on the latter ground. Contrary to Kennedy's technical complaints, he had adequate notice of the hearing to examine the forgery, he was present, and he was not prejudiced by an inadequate opportunity to cross examine the witnesses. The signatures on the two affidavits are remarkably similar. One "affiant," Denny Strong, denied that his signature was on the affidavit attributed to him. Based on the testimony he heard, the magistrate judge certainly did not clearly err in determining that one of the signatures was forged.

Neither this court nor the district court must stand idly by while pro se litigants abuse our time and the processes of the court by concocting "evidence" to support their positions. The district court did not abuse its discretion in dismissing this case with prejudice because Kennedy willfully disregarded the rule that an affiant must sign his own affidavit and in so doing, must swear on penalty of perjury to its truthfulness. Without that guarantee of trustworthiness, the reliability of court proceedings would soon be jeopardized. We strongly condemn Kennedy's maneuver.

The judgment of the district court is AFFIRMED.