

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1240
Summary Calendar

DAVID BYRON HAYNIE,

Plaintiff-Appellant,

versus

CHARLES TURNBO, Regional Director,
U.S. Bureau of Prisons, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court for the
Northern District of Texas
3:92 CV 1835 H

(June 23, 1993)

Before JOLLY, BARKSDALE, and E. GARZA, Circuit Judges.

PER CURIAM:*

David Byron Haynie is a former inmate at FCI, El Reno. Haynie, proceeding pro se, filed a Bivens complaint against Charles Turnbo, Regional Director of the U.S. Bureau of Prisons (BOP), and F. Thaufeer al Deen, the Muslim Administrative Chaplain for the BOP. Haynie alleged that the defendants failed to provide him with a free "Geneva text Bible" in violation of his First Amendment

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

right to freedom of religion. Haynie also alleged that the defendants violated his equal protection rights because they have provided free religious texts to other inmates of different religions.

A magistrate judge recommended dismissing Haynie's complaint as frivolous, pursuant to 28 U.S.C. § 1915(d). After reviewing Haynie's objections to the magistrate judge's recommendation, the district court adopted the findings and conclusions of the magistrate judge and dismissed the complaint.

Recognizing a rational correlation between a prison's policy of not providing free materials for every religion and a legitimate governmental interest, this court has held that there is "no constitutional or legal requirement that the government provide materials for every religion and sect practiced in this diverse country." Frank v. Terrell, 858 F.2d 1090 (5th Cir. 1988) (quoting Cruz v. Beto, 405 U.S. 319, 323, 92 S.Ct. 1079, 31 L.Ed.2d 263 (1972) (Burger, C.J., concurring)). As to the second factor, as an alternative means to exercise his right to freedom of religion, Haynie is free to purchase a Geneva text bible himself. Last, providing free religious materials for every religion could deplete prison resources and burden prison officials. Thus, Haynie's allegation that his right to freedom of religion has been violated lacks a legal or factual basis. The Frank Court noted, however, that the prisoner in that case did not assert that he was discriminated against for his beliefs. See 858 F.2d at 1091.

Moreover, Cruz, cited by Frank, held that a prisoner is discriminated against if he is a member of an established religion and is denied a reasonable opportunity of pursuing his faith comparable to the opportunity afforded fellow prisoners who adhere to conventional religious precepts. See 405 U.S. at 322. Here, however, there is no claim that the "Geneva text Bible" is required or necessary in order to afford Haynie a reasonable opportunity to practice an established or, indeed, any religion. Consequently, Haynie has failed to show that he is a member of a protected class, a necessary predicate for his equal protection claim.

A F F I R M E D.