

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1523

Summary Calendar

BUFFORD MCDONALD,

Plaintiff-Appellant,

versus

L.W. WOOD, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
(5:93 CV110)

September 9, 1993

Before KING, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Bufford McDonald, an inmate of the Texas Department of Criminal Justice, Institutional Division, Price Daniel Unit, filed this action against L.W. Woods, the unit's warden, and other prison officials, alleging that they conspired to retaliate against him for not wanting to occupy a cell with a black inmate.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

After incidents during which McDonald refused to share a cell with a black inmate, McDonald was disciplined, leading to 15 days in solitary confinement, 30 days without access to the commissary, and two months without visiting privileges. McDonald alleges that prison officials threatened retaliation if he challenged his living arrangements in the courts.

In addition, McDonald alleges that he has been prevented from sharing a cell with a nonsmoker, though he allegedly has throat ailments agitated by secondary tobacco smoke, that he can no longer participate in Craft Shop activities, depriving him of income, that he has been deprived of training at a diesel school, and that "unknown defendants" caused him to lose legal materials while in solitary confinement. McDonald requests injunctions and money damages to improve his plight.

The district court dismissed McDonald's action as frivolous, citing 28 U.S.C. § 1915(d). It concluded that McDonald's complaint constituted an abuse of judicial process because it was substantially identical to the complaints McDonald filed on two previous occasions. The district court forbade any further filings by McDonald without specific leave of the court.

Though McDonald alleges that his claim requesting injunctive relief to prevent prison officials from housing him with a black inmate is not repetitive, McDonald's litigious record before this court belies that allegation. See McDonald v. Collins, No. 92-1963 (5th Cir. July 1, 1993) (per curiam) (unpublished); McDonald v. Woods, No. 93-1241 (5th Cir. July 1, 1993) (per curiam)

(unpublished). The district court properly dismissed McDonald's claim as repetitive. See Bailey v. Johnson, 846 F.2d 1019, 1021 (5th Cir. 1988).

McDonald makes other claims in his brief that have never been before this court, such as "retaliation, harrassment [sic] and loss of property and whatever the other grounds were," but McDonald did not properly brief those claims, as required by Rule 28(a)(5) of the Federal Rules of Appellate Procedure. Nor did McDonald comply with Local Rule 28.2.3, stating that every assertion in the briefs regarding matters in the record should reference the page number in the record. These omissions mean that McDonald does not proffer a meaningful legal document, so it would be imprudent for this court to reach the merits of his claims. See Thompkins v. Belt, 828 F.2d 298, 302 (5th Cir. 1987).

AFFIRMED.