

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1532

Summary Calendar

WILLIAM LAWRENCE STEVENSON,

Plaintiff-Appellant,

v.

LUBBOCK COUNTY SHERIFF'S
DEPARTMENT, ET AL.,

Defendant-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
(5:93 CV 130)

August 20, 1993

Before KING, HIGGINBOTHAM and BARKSDALE, Circuit Judges.

PER CURIAM:*

Plaintiff-appellant William Lawrence Stevenson appeals the district court's dismissal under 28 U.S.C. § 1915(d) of his suit under 42 U.S.C. § 1983 alleging that the Lubbock County Sheriff's Department violated his constitutional rights by denying him a haircut. Stevenson alleged that other inmates were allowed to

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

have haircuts and that he requested a haircut for hygienic reasons. Stevenson requested the district court to order psychoanalysis for deep depression and mental anguish caused by the denial of his haircut and the payment by the defendants of monetary damages.

A complaint filed in forma pauperis can be dismissed by the court sua sponte if the complaint is frivolous. 28 U.S.C. § 1915(d). A complaint "' is frivolous where it lacks an arguable basis either in law or in fact.'" Denton v. Hernandez, ___ U.S. ___, 112 S.Ct. 1728, 1733 (1992) (citing Neitzke v. Williams, 490 U.S. 319, 325 (1989)). This Court reviews a § 1915(d) dismissal under the abuse-of-discretion standard. Denton, 112 S.Ct. at 1734.

If Stevenson is a pre-trial detainee, he must establish that the refusal of jail officials to provide him with a haircut amounted to punishment. Bell v. Wolfish, 441 U.S. 520, 535 (1979). If Stevenson is a convicted prisoner, he must show, among other things, that he has been deprived of an "identifiable human need such as food, warmth, or exercise." Wilson v. Seiter, ___ U.S. ___, ___, 111 S. Ct. 2321, 2327 (1991). Under either analysis, we agree with the district court that Stevenson's claim falls far short. Conditions of confinement that merely cause discomfort or inconvenience are not constitutionally proscribed.

The judgment of the district court is AFFIRMED.