UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 93-1768
Summary Calendar

RAMON X. EVANS,

Plaintiff-Appellant,

versus

TARRANT COUNTY SHERIFF'S DEPARTMENT, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
For the Northern District of Texas
(4:92-CV-632-A)

(September 14, 1994)

Before POLITZ, Chief Judge, SMITH and WIENER, Circuit Judges.

PER CURIAM:[*]

Ramon X. Evans, a prisoner of the Texas Department of Criminal Justice, appeals an adverse judgment in his *pro se, in forma pauperis* civil rights suit against Tarrant County and James Skidmore, warden of the Tarrant County jail. We affirm.

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

Background

Evans filed the instant complaint in late 1992, alleging violations of his first amendment religious freedoms and equal protection rights during a previous confinement in the Tarrant County jail. Evans alleges that he was refused a complete copy of the "Quran," denied an opportunity to congregate with fellow Muslim inmates or to meet with an Islamic minister, and was often served pork, a prohibited food in his religion. He also claims that Christian inmates received opportunities for religious exercise that Muslims were denied. The district court entered judgment for the defendants following a bench trial. Evans timely appealed.

Analysis

On appeal Evans first claims that his request for appointment of counsel was improperly denied. There is no absolute right to appointment of counsel in civil rights cases.[1] As the instant case is unexceptional and poses issues which are neither legally nor factually complex, the district court did not abuse its discretion in refusing to appoint counsel.[2]

Evans contends that the district judge evidenced religious bias, stating that the court mischaracterized his suit as a request to congregate "for the sake of congregating." Without more, the cited statement indicates neither an arguable personal nor religious bias.

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[1]28 U.S.C. § 1915(d); **Ulmer v. Chancellor**, 691 F.2d 209 (5th Cir. 1982).

[2]**Ulmer**.

Construed liberally,[3] the remainder of Evans' complaint centers on the purported denial of opportunities to practice his religion. Because Evans' brief disputes the district court's factual findings, claiming no legal error, we must review only for clear error. Evans claims he was denied a complete copy of the Quran. Grievance Officer Sandra Kay Davis searched Evans' cell and found a volume which Evans admitted was his copy of the religious text. Although he did not say so at the time, Evans now claims that his was only a partial copy. Given the failure to inform Davis that the copy was incomplete, if indeed it was, the district court did not clearly err in finding the jail blameless.

Evans maintains that he was not permitted to congregate with other Muslim prisoners in violation of his first amendment rights. The regulations barred congregating for religious service because the jail staff is not sufficient to accommodate assemblies. Evans makes no showing that this finding was clearly erroneous. The security concern underlying this regulation is obviously related to important penological interests. We perceive no constitutional violation.[4] In addition, Evans suggests that Christian inmates were housed together and were allowed to congregate and to receive access to ministers and religious literature while Muslims were not. This series of disparities, he claims, violated his right to

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[3]In the main, Evans' brief describes evidence he might have adduced, apparently in support of his suggestion that he could have put on a better case had counsel been appointed. As noted above, appointment of counsel was not warranted in the instant case.

[4]**Muhammad v. Lynaugh**, 966 F.2d 901 (5th Cir. 1992).

equal protection. The uncontroverted evidence establishes that inmates were not housed by religion, that they were not permitted to congregate for religious services regardless of faith, that each inmate had access to a minister of any faith by making a request to the jail chaplain, and that any religious literature refused to Evans was barred by a legitimately security-related and content-neutral prison regulation against hardcover books. We conclude that the district court's findings are well supported; we find none clearly erroneous.

Finally, Evans contends that the jail served meals of pork, a food proscribed in his faith. Warden Skidmore testified that no pork products are served at the jail. On such testimony and in the absence of strong contrary evidence, the district court did not err in its finding against Evans.

By separate motion filed with this court Evans objects to our previous order granting the defendants' motion to file their brief out of time. That motion was granted as unopposed. Evans now claims that he failed to object earlier because he did not receive a copy of the motion. The motion has been granted; the brief has been filed; the motion by Evans is DENIED as moot.

The judgment of the district court is AFFIRMED.