

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-4109  
Conference Calendar

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STEVEN PAUL COOPER,

Plaintiff-Appellant,

versus

TOMMY CROW, ET AL.,

Defendants,

HOMERO RUIZ,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 6:91-CV-371  
- - - - -  
(March 25, 1994)

Before KING, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:\*

Steven Paul Cooper filed a civil rights action naming various officials of the Texas Department of Criminal Justice (TDCJ) as defendants and alleging violations of his rights under the First, Eighth, and Fourteenth Amendments. He appeals from the judgment of the district court dismissing his complaint for failure to exhaust administrative remedies.

In his brief on appeal, Cooper restates the facts and issues

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

in his complaint and urges the Court to vacate the judgment of the district court in the interest of justice. In his reply brief, Cooper contends that the order granting partial dismissal of his complaint against the majority of the defendants was error and argues that this Court should remand to the district court for a trial on the merits. Further, he asserts that the magistrate judge erred in dismissing his complaint against Ruiz for failure to exhaust administrative remedies.

Cooper presents no arguments or references to the magistrate judge's analysis in his brief. "Although we liberally construe the briefs of pro se appellants, we also require that arguments must be briefed to be preserved." Price v. Digital Equip. Corp., 846 F.2d 1026, 1028 (5th Cir. 1988) (citations omitted). Generally, claims not argued in the body of the brief are abandoned on appeal, even if the appellant is proceeding pro se. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993). However, Homero Ruiz has filed a memorandum of law addressing the dismissal of the claim against him for failure to exhaust administrative remedies. We address the merits of the dismissal of the claim against Ruiz because there is no apparent prejudice. See United States v. Pierce, 959 F.2d 1297, 1301 n. 5 (5th Cir.), cert. denied, 113 S.Ct. 621 (1992). The remaining claims are considered abandoned.

Cooper argues that Congress did not intend to require that every plaintiff bringing a claim under 42 U.S.C. § 1983 exhaust administrative remedies. He contends that the Court must balance the interests of the parties; and when the litigant's interest

outweighs the administrative and judicial interest, exhaustion should not be required. Liberally construed, Cooper asserts that the balance weighs in his favor because he is in immediate danger of harm. Further, Cooper contends that his action in the district court could be prejudiced by exhaustion of administrative remedies because the "agency" is not "empowered to grant effective relief."

A federal district court hearing a prison inmate's § 1983 action has discretion to require exhaustion of prison administrative remedies. Rocky v. Vittorie, 813 F.2d 734, 735 (5th Cir. 1987); 42 U.S.C. § 1997e. Should the prisoner fail to exhaust administrative remedies after being ordered to do so, the district court may dismiss the prisoner's § 1983 action with prejudice. Rocky, 813 F.2d at 736. Before a district court may invoke the exhaustion requirement, however, "the administrative procedures must be certified by the United States Attorney General or the district court to be in compliance with statutorily defined minimum standards. . . ." Id.; see 42 U.S.C. § 1997e(a)(2) and (b). The administrative remedies available to TDCJ inmates have been properly certified as required by 1997e. See Pedraza v. Ryan, No. 90-4614 (5th Cir. Nov. 30 1990) (unpublished) (copy attached).

Cooper does not assert that he has made any attempt to exhaust administrative remedies. In light of his inaction, his assertion that he is in immediate harm is unconvincing. Moreover, his contention that his case will be prejudiced because TDCJ cannot award him money damages is without merit. See Martin

v. Catalanotto, 895 F.2d 1040, 1042 (5th Cir. 1990) There is no showing that the magistrate judge abused her discretion; therefore, the judgment is AFFIRMED. Cooper's motion, construed as an application for an injunction during the pendency of the appeal, is DENIED.