

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7333
Summary Calendar

CHRISTOPHER MOORE,

Plaintiff-Appellant,

versus

EDDIE M. LUCAS, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi
(CA-4:92-33-B-D)

(March 9, 1994)

Before POLITZ, Chief Judge, HIGGINBOTHAM and DeMOSS, Circuit Judges.

PER CURIAM:*

Christopher Moore, proceeding *pro se* and *in forma pauperis*, appeals adverse judgment in his 42 U.S.C. § 1983 suit against prison officials. Finding no reversible error, we affirm.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.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

Moore, an inmate at the Parchman facility of the Mississippi Department of Corrections, tested positive for marihuana use. On December 11, 1991 he was placed in administrative segregation pending a disciplinary hearing. Within 72 hours Moore was given a hearing before the Classification Committee and thereafter received 7- and 14-day reviews. His disciplinary hearing was conducted January 2, 1992. Moore admitted that he had smoked marihuana within seven days of the test. The Disciplinary Committee recommended a downgrading of his custody status, subject to a 90-day suspension pending good behavior. On January 14 that recommendation was approved by the reviewing authorities and on January 16 Moore was returned to the general prison population.

Moore brought the instant suit, claiming a violation of his due process rights. After a bench trial the magistrate judge recommended denial of relief; the district court agreed. Moore timely appealed.

Analysis

Moore complains that more than 20 days elapsed between the time he was placed in administrative segregation and his disciplinary hearing, and that an additional 14 days elapsed thereafter until his release to the general prison population. Those delays, he contends, offend the due process clause of the fourteenth amendment because they violate prison policy and procedure. We are not persuaded.

According to the MDOC documents filed in evidence, an inmate may be kept in administrative segregation pending investigation of a disciplinary offense for no more than 20 days. For an offense classified as "serious," as was Moore's, the maximum punishment is 20 days in disciplinary detention. Moore was held in administrative segregation 22 days before he received his Disciplinary Committee hearing and then another 14 days pending processing of the Disciplinary Committee's recommendation. The Committee did not recommend any lockdown time. We need not address whether MDOC regulations created a liberty interest because we find that the alleged infringement did not rise to the level of a constitutional violation.

To establish a substantive due process violation "a plaintiff must show that the government's deprivation of a . . . [protected] interest was arbitrary or not reasonably related to a legitimate governmental interest."¹ Moore has not met this burden. That the Disciplinary Committee hearing was held two days after the 20-day deadline cannot be construed as arbitrary considering the intervening Christmas and New Year holidays. The period that elapsed before the disciplinary decision became final was occasioned by the administrative review procedure that had been instituted to assure fairness and accuracy in the process. That period is substantially less than the 20-day punishment period that could have been imposed for the marijuana violation. The treatment

¹ **Williams v. Texas Tech University Health Sciences Center**, 6 F.3d 290, 294 (5th Cir. 1993), petition for cert. filed (U.S. Jan. 20, 1994) (No. 93-1185).

accorded Moore was not so egregious as to offend his constitutional rights. Moore's claims to the contrary properly were dismissed.

AFFIRMED.