

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7730
Summary Calendar

CHESTER V. HAAS,

Plaintiff-Appellant,

versus

MAJOR E. L. SPARKMAN, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court for
the Southern District of Texas
(CA G 84 40)

July 19, 1995

Before REAVLEY, DAVIS and DeMOSS, Circuit Judges.

PER CURIAM:*

Chester V. Haas, an inmate at the Ramsey II Unit, filed a civil rights action pursuant to 42 U.S.C. § 1983. Haas' suit alleged that John Adams, a corrections officer at the Ramsey II Unit, violated Haas' First Amendment right to engage in the exercise of religion by taking Haas' personal Bible and refusing to provide him with another one when Haas was placed in solitary

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

confinement in April, 1983. A jury found that Adams had not intentionally deprived Haas of a Bible. Haas appeals, claiming various trial errors. We affirm.

DISCUSSION

Haas argues that the district court erred in granting the jury's request to have Adams' testimony read back to the jurors after their deliberations had begun. However, the trial court has "broad discretion in responding to a jury request to reread testimony," and Haas provides no argument in support of his claim that the district court abused its discretion in this case. United States v. Sandoval, 847 F.2d 179, 186 (5th Cir. 1988).

Haas also argues that the district court erroneously admitted irrelevant evidence. See Fed. R. Evid. 402, 403. Haas has also failed to show that the district court abused its "broad discretion in the admission of evidence." Hunnicut v. Wright, 986 F.2d 119, 124 (5th Cir. 1993).

The district court did not err in admitting photographs of Haas' cluttered prison cell. The witnesses at trial testified that, when an inmate is moved into solitary confinement, his belongings are packed away until he is released from solitary confinement. The photographs were relevant to show that Adams might erroneously have packed up Haas' Bible along with his other belongings if Haas was indeed placed in solitary confinement in April, 1983. Adams also contends that Haas was not held in solitary confinement during the time period in which he claims his Bible was taken. The photographs show that Haas' cell

contained lawbooks and other items. If Haas was not in solitary confinement, he had access to all of those items in his cell. The photographs were offered to show that Adams would not likely remove Haas' Bible if he did not remove items such as lawbooks.

Nor did the district court abuse its discretion in admitting evidence about Haas' past disciplinary problems at Ramsey II. The district court admitted evidence relating to a disciplinary charge Adams filed against Haas shortly before Haas filed this lawsuit. That evidence was relevant to Haas' motivation in filing this lawsuit.

The district court also admitted evidence that Haas had created disciplinary problems by starting fires in and nearby his cell. That evidence was relevant to the material issue of whether, if Haas was actually denied possession of a Bible, Adams could justify the denial by pointing to safety concerns. If Haas had a habit of starting fires, prison officials might be forced to keep all books and papers from Haas for his own safety and for the safety of others.

Haas complains that Adams' attorney displayed on the defense table a thick file clearly labelled as Haas' disciplinary records. Haas argues that the jury saw the file and considered his disciplinary past in deciding this case. However, the file was not admitted into evidence, and the district court instructed the jury to consider "only the evidence submitted in the case." Haas cannot establish that the jury disregarded this instruction

and that the visibility of the file affected the outcome of his lawsuit.

Finally, the district court did not err in admitting evidence of Haas' numerous past grievances and lawsuits against the Texas Department of Criminal Justice and its employees. The evidence was relevant to show the relationship between the parties, the litigation history of the parties and the motive of Haas in filing this lawsuit.

The evidence relating to grievances also supports the defense theory that Adams never deprived Haas of access to a Bible. The evidence shows that Haas knew well how to use the grievance system but filed no grievance indicating that his Bible was missing or that requests for a new Bible had been rejected during the time relevant to this lawsuit.

Adams' attorney also introduced into evidence a grievance filed by Haas, before the incident complained of in this lawsuit, complaining that his Bible had been taken. In that grievance, Haas lists the Bible with various other personal items he believed had been taken from him. This evidence tends to prove that Haas did not consider his Bible to be of greater importance than his other personal items. The evidence was thus relevant to the material question of whether Haas was truly prevented from engaging in worship which was important to him.

AFFIRMED.