IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-9029
Conference Calendar

GLEN C. JAMES,

Plaintiff-Appellant,

versus

DAVID W. WILLIAMS, Sheriff,
Tarrant County, TX, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:93-CV-689-A
- - - - - - - - - -
(May 19, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Glen C. James filed a pro se, in forma pauperis (IFP) civil rights complaint alleging that he was punished without due process. The district court dismissed the complaint without prejudice as frivolous.

A complaint filed IFP can be dismissed sua sponte if the complaint is frivolous. 28 U.S.C. § 1915(d); Cay v. Estelle, 789 F.2d 318, 323 (5th Cir. 1986). A complaint is frivolous if it lacks an arguable basis in law or fact. Ancar v. Sara Plasma,

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Inc., 964 F.2d 465, 468 (5th Cir. 1992). This Court reviews the district court's dismissal for an abuse of discretion. Id.

James argues that he was punished without due process because he was denied access to his cell during the one-hour period. Pretrial detainees cannot be subject to conditions of confinement that amount to punishment. Parker v. Carpenter, 978 F.2d 190, 192 (5th Cir. 1992). Action or inaction related to a pretrial detainee is considered punishment unless it is reasonably related to a legitimate governmental objective. Id.

By James's own admission the policy of locking all doors was instituted for security reasons. James's cell door was locked in accordance with this policy, and therefore the James was denied access to his cell as a result of a legitimate policy and not as punishment. The district court did not abuse its discretion by dismissing James's complaint as frivolous.

James argues that the district court prematurely dismissed his complaint without a Spears hearing. A district court is not required to conduct a Spears hearing before dismissing an IFP complaint as frivolous. Green v. McKaskle, 788 F.2d 1116, 1120 (5th Cir. 1986). Although ordinarily the district court should not dismiss a pro se complaint without providing the plaintiff with an opportunity to amend, if the individual circumstances of the case demonstrate that the plaintiff has pleaded his "best" case, leave to amend is not necessary. See Jacquez v. Procunier, 801 F.2d 789, 793 (5th Cir. 1986). On appeal James continues to allege no more than his belief that the policy of locking the doors is not a necessary security precaution and that the

decision to deny him access to his cell was punishment for failing to close his door when he left his cell. James pleaded his "best" case in the district court, Jacquez, 801 F.2d at 793, and the district court did not commit reversible error.

For the first time on appeal James argues that he has a privacy interest in not exposing his "private parts" to female prison guards; that he has a liberty interest in access to his cell and the dayroom; and that the jail officials violated their own regulations in violation of the Due Process Clause. This Court will not address issues raised for the first time on appeal. See Yohey v. Collins, 985 F.2d 222, 225 (5th Cir. 1993).

The judgment of the district court is AFFIRMED. James's motion for appointment of counsel is DENIED. See Ulmer v. Chancellor, 691 F.2d 209, 213 (5th Cir. 1982).