

UNITED STATES COURT OF APPEALS  
for the Fifth Circuit

---

No. 93-9166  
Summary Calendar

---

TOMMY CARL MOORE,

Plaintiff-Appellant,

VERSUS

DAVID DOUGHTY, Warden, TDCJ,  
Road Unit, Childress, Texas, ET AL.,

Defendants,

DAVID DOUGHTY, Warden, TDCJ  
Roach Unit, Childress, Texas, ET AL.,

Defendants-Appellees.

---

Appeal from the United States District Court  
for the Northern District of Texas  
(2:91-CV-0277)

---

(October 31, 1994)

Before DUHÉ, WIENER, and STEWART, Circuit Judges.

PER CURIAM:<sup>1</sup>

Appellant Moore, a Texas prison inmate, proceeding pro se and in forma pauperis, sued numerous prison officials under 42 U.S.C. § 1983 alleging that he was denied access to the courts and subjected to acts of retaliation and harassment because he is a writ writer. The district court granted summary judgment in favor

---

<sup>1</sup> 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

of Defendants on some issues and the remainder proceeded to trial by jury. The jury found for Defendants. Moore appeals the jury verdict and the grant of summary judgment. We affirm.

We do not consider any of Appellant's arguments relative to his trial. He has defaulted them by failure to comply with Federal Rules of Appellate Procedure 28(a)(4) and (5), and Fifth Circuit Rules 28.2.3 and 42.3.2. Moore's attempt to remedy in his reply brief the insufficiency of his brief in chief comes too late. See Forsyth v. Barr, 19 F.3d 1527, 1537 (5th Cir. 1994), cert denied, 1994 U.S. Lexis 6328 (U.S. Oct. 3, 1994), see also States v. Prince, 868 F.2d 1379, 1386 (5th Cir.), cert. denied, 493 U.S. 932 (1989).

Appellant also appeals the grant of summary judgment with respect to Little (coordinator of the Access to Courts Program), Captain Black, (for ordering Moore to desist writing I-60 requests for other inmates), his claim regarding retaliatory transfer and his disciplinary hearing. We review the grant of summary judgment under the usual rubric of Rule 56.

The claim against Little is not adequately briefed and is waived. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993). The same is true of his claim against Captain Black because, although he refers to portions of Black's testimony, he does not furnish citations to the trial transcript.

Moore claims he was transferred to another prison in retaliation. Defendants offered in support of their summary judgment the affidavit of the Medical Classification and Transfer

Coordinator in the Health Services Division which establishes that Appellant's transfer was solely for medical reasons. Moore offers only his own unsupported speculation to combat that showing. This is insufficient to raise an issue of material fact.

Finally, Appellant's substantive due process challenge to his disciplinary hearing is also unavailing. There was some evidence, in the form of the charging officer's report and witness's testimony, to support the disciplinary board's determination of guilt. Our review of a disciplinary board's decision is limited to determining whether that decision is supported by "some facts" or "any evidence at all". See Stewart v. Thiqpen, 730 F.2d 1002, 1005-06 (5th Cir. 1984).

Appellant's motion to quash the Appellees' brief and his Suggestion for Hearing En Banc are denied.

Judgments AFFIRMED, motions DENIED.