

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-10037  
Summary Calendar

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WILLIAM MIXON,

Plaintiff-Appellant,

versus

D. D. SANDERS,

Defendant-Appellee.

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Appeal from the United States District Court for the  
Northern District of Texas

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(5:93-CV-15)

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(September 29, 1994)

Before KING, JOLLY, and DeMOSS, Circuit Judges

PER CURIAM:\*

William Mixon filed this 42 U.S.C. Section 1983 action complaining that his Eighth Amendment right to be free of cruel and unusual punishment was violated by the failure of D. D. Sanders, the warden at his new unit, to provide adequate protection from a

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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 Pursuant to that rule, the court has determined that this opinion should not be published.

certain inmate who had previously beaten Mixon because of alleged racial hatred. Following a bench trial on the merits, the district court determined that the evidence did not demonstrate a constitutional violation and entered judgment for Sanders.

Mixon testified that he was presently assigned to another unit, where he was comfortable and without fear.

Warden Sanders testified that he did not have any knowledge that Mixon was in fear for his safety until December 2, 1992, after Mixon's second disciplinary hearing. He testified that Mixon had various opportunities to communicate his concerns to the correctional staff, starting from his arrival at the Jordan Unit, but there was no record of any complaints. Also, Mixon never filed an emergency grievance form regarding a serious, life-threatening problem. Mixon had previously filed for a transfer, but indicated that the basis for the transfer was for health reasons.

Sanders testified that he knew that Mixon had been involved in a fight with Robinson at their previous unit. When Sanders learned about Mixon's concerns while at the Jordan Unit, he had Mixon placed in administrative segregation, away from the general population, and conducted an investigation. On December 9, 1992, a week after learning about Mixon's concerns, Sanders then held a classification committee hearing. At the hearing, the committee reviewed Mixon's records and the investigation into Mixon's allegations concerning his safety. Mixon was also allowed to make a statement. Sanders determined through his investigation that

Mixon's security was not threatened. Sanders testified that Mixon never gave him an inmate's name, a specific incident of a direct threat, or any other information to identify Mixon's alleged tormentor.

The record supports the district court's conclusion that Sanders took reasonable steps to protect Mixon from possible violence from inmate Robinson and that Sanders was not deliberately indifferent to a possible threat to Mixon's security. The district court did not err in entering judgment for Sanders.

A F F I R M E D.<sup>1</sup>

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<sup>1</sup>Mixon also argues that the district court erred in denying his motion to subpoena inmate witness Allan Hallack. Additionally, Mixon appears to argue that he has an Eighth Amendment claim for the mental injury alone due to the stress and strain of his fear of violence from Robinson. These issues were not raised in the district court. This court need not address issues not considered by the district court.