IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-20283
(Summary Calendar)

ANGELO NAPOLEON ANSLEY, ET AL.,

Plaintiffs,

ANGELO NAPOLEON ANSLEY,

Plaintiff-Appellant,

versus

JERRY HODGE, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
(CA-H-91-0273)

(April 19, 1995)

Before DUHÉ, WIENER and STEWART, Circuit Judges.

PER CURIAM:[*]

In this appeal from the district court's dismissal as frivolous, pursuant to 28 U.S.C. § 1915(d), of the claim of

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Plaintiff-Appellant Angelo Napoleon Ansley for alleged violations of his civil rights, Ansley contends that the district court committed reversible error and urges that his complaint under 42 U.S.C. § 1983 should be reinstated. For the reasons set forth below, we decline the opportunity to dismiss this appeal on the basis of Ansley's failure to comply with the briefing requirements of the Federal Rules of Appellate Procedure and with the requirements of 5th Cir. R. 42.3.2 regarding the contents of briefs, and instead affirm the district court's dismissal of Ansley's action as frivolous.

I

FACTS

Proceeding pro se and in forma pauperis (IFP), Ansley and twelve other Texas prisoners filed suit challenging the Texas Department of Criminal Justice's (TDCJ) treatment of prisoners who are either Jewish or interested in converting to Judaism. The district court dismissed the claims of some of the plaintiffs for want of prosecution, and dismissed the remaining claims as frivolous. The court provided a separate analysis in dismissing the complaint of Ansley, who was the only remaining plaintiff claiming to be Jewish.

Prior to dismissing Ansley's claims, the district court twice ordered him to amend his complaint, and twice sent him a detailed questionnaire and directed him to provide a more definite statement of his claims. Ansley's responses gave the court scant enlightenment, if any. Ansley's second amended complaint alleged

that the defendants were providing inadequate access to Jewish religious services and opportunities for instruction in the Jewish faith. Without reciting specific facts, Ansley alleged that certain defendants had denied him a kosher/non-pork diet and "religious hair." The district court again directed Ansley to provide a more definite statement. Ansley responded that he had been denied access to Jewish services, Jewish dietary practices,[1] and "Hebrwe (sic) hair care expression of faith practice." He stated that he was a Black American Jew, and alleged that he had been denied the right to practice as a "Jewish and Human Rights Advisor to Inmates and Free World" and that he had been subjected to religious discrimination with regard to paroles and furloughs.

The district court determined that (1) Ansley had failed to allege a constitutional violation regarding lack of access to Jewish services, (2) the TDCJ grooming regulations were constitutional, and (3) Ansley's "inconsistent, vague, and conclusory" statements concerning religious and racial discrimination were insufficient to state a constitutional claim. The court did not expressly address Ansley's dietary claims but did note that Ansley's pleadings were "utterly unintelligible and loaded with meaningless verbiage." Ansley has appealed the district court's dismissal of his complaint as frivolous.

[1] Ansley again failed to provide any details to support his conclusional allegation of dietary discrimination.

II

ANALYSIS

An IFP claim that has no arguable basis in law or fact may be dismissed as frivolous. 28 U.S.C. § 1915(d); Booker v. Koonce, 2 F.3d 114, 115 (5th Cir. 1993). We review such dismissals for abuse of discretion. Booker, 2 F.3d at 115.

Separate and apart from the issue of frivolity under § 1915(d), however, this appeal is subject to dismissal for Ansley's failure to provide an adequate appellate brief. His brief is largely incomprehensible, presenting no specific legal arguments regarding any alleged errors committed by the district court, and providing no citations to the record or to factual explanations of the basis for his conclusional claims. Ansley has clearly failed to present any viable appellate arguments. See Wilkes, 20 F.3d at 653; Yohey, 985 F.2d at 225.

But rather than dismissing Ansley's appeal, we choose to affirm the district court's dismissal of his action as frivolous, pursuant to 28 U.S.C. § 1915(d). Ansley has not demonstrated that the district court abused its discretion by dismissing a complaint that included insufficient factual allegations after twice giving him more than ample opportunities to explain the factual basis of his claims. Booker, 2 F.3d at 115; see Eason v. Thaler, 14 F.3d 8, 10 (5th Cir. 1994); Spears v. McCotter, 766 F.2d 179, 181 (5th Cir. 1985) (questionnaire may be used to dig beneath a pro se prisoner's conclusional allegations to determine the factual and legal bases of a claim).

In this case the plaintiff's claims are not facially frivolous. See Eason, 14 F.3d at 9 (absent a legitimate penological reason, prison officials should accommodate an inmate's religious dietary restrictions); Jones v. Cockrell, No. 94-40188 (5th Cir. Feb. 6, 1995) (unpublished; copy attached) (remand to district court for reconsideration of inmate's religious challenge to prison grooming regulations in light of Religious Freedom Restoration Act of 1993, 42 U.S.C. §§ 2000bb-2000bb-4). Rather, Ansley has failed to support his claims with facts concerning the alleged constitutional violations. Merely stating the conclusion that an inmate has suffered a constitutional violation is insufficient to show that a complaint is non-frivolous if, after being given an opportunity to explain the factual basis of his claim, the inmate fails to provide any facts tending to show that a violation occurred. Cf. Eason, 14 F.3d at 10; see Grant v. McGee, No. 94-60348 (5th Cir. Nov. 23, 1994) (unpublished; copy attached) (plaintiff's legal theory must be substantiated with sufficient facts to permit the court to conclude that claim has an arguable factual basis).

For the foregoing reasons, therefore, the district court's judgment of dismissal under § 1915(d) is

AFFIRMED.