

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-20850
Summary Calendar

CHRISTOPHER JAMES MURPHY,

Plaintiff-Appellant,

versus

WAYNE SCOTT, Director
Texas Department of Criminal
Justice, Institutional Division,
ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
(CA-H-92-2243)

(May 17, 1995)

Before JONES, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:¹

Christopher James Murphy, *pro se* and *in forma pauperis*, appeals the dismissal of certain of his claims against Texas prison officials. We **AFFIRM**.

I.

Murphy, an inmate in the Texas Department of Criminal Justice, filed a complaint in July 1992, pursuant to 42 U.S.C. § 1983, alleging that prison personnel seized his possessions relating to

¹ Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

the satanic religion, including two T-shirts; that prison personnel physically harassed and "fondled" him; that his grievances in connection with these incidents were denied; that he was falsely accused of assaulting two officers who had harassed him, and was placed in punitive segregation as a result of disciplinary action taken against him without due process; that, while he was in punitive segregation, his property was taken and he lost several privileges, including the right to medical examinations; and that he was assigned to do heavy field work although he had been classified as medically disabled.

In an amended complaint filed that September, Murphy's claims were restricted to those involving the seizure of two T-shirts with satanic symbols on them. Murphy sought to have prison officials enjoined from classifying property containing satanic symbols as contraband, as well as to receive compensatory and punitive damages. Approximately a year later, Murphy filed a supplemental complaint, alleging that, after he had filed his original complaint, his silver pentagram religious medallion and a T-shirt were taken from him by prison officials as the result of religious discrimination and retaliation.

At a *Spears*² hearing in September 1994, Murphy testified only with respect to his claims regarding the confiscation of his T-shirts and medallion. Neither Murphy nor the district court addressed the other claims in the original complaint. At the conclusion of the hearing, the district court ruled that the

² *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985).

defendants could not interfere with Murphy's right to exercise his religious beliefs, and ordered the defendants to provide Murphy with two new T-shirts and a new laundry bag, to replace one on which Murphy claimed the defendants had written references to Christianity. The district court held that Murphy had not identified the individual who had allegedly taken his medallion, and that his allegations demonstrated negligence, at most, and therefore could not support a claim that the medallion was taken in an attempt to infringe upon his religious rights. The district court entered judgment awarding Murphy two white T-shirts and a laundry bag, and dismissed "all other claims".

II.

In his two-page appellate brief, Murphy seeks reversal of only that portion of the judgment decreeing that "all other claims are dismissed". He contends that the district court abused its discretion by dismissing those "other claims" (which he does not identify) without entering findings of fact and conclusions of law to demonstrate that it had considered them.

Liberally construing Murphy's *pro se* brief, we assume that his contention regarding the dismissal of his "other claims" is intended to refer to the claims asserted in his original complaint.³ The district court did not abuse its discretion by

³ The district court made findings of fact and conclusions of law regarding the dismissal of Murphy's claim concerning the medallion. Because Murphy appeals only the dismissal of claims for which no reasons were stated by the district court, we do not interpret his brief as contesting the dismissal of the medallion claim.

refusing to address those claims, because Murphy's original complaint was superseded by his amended complaint; therefore, those claims were no longer before the court. See **King v. Dogan**, 31 F.3d 344, 346 (5th Cir. 1994) ("An amended complaint supersedes the original complaint and renders it of no legal effect unless the amended complaint specifically refers to and adopts or incorporates by reference the earlier pleading."). Murphy did not allege in his amended complaint that he was adopting or incorporating by reference his original complaint. Moreover, Murphy did not seek to raise the claims asserted in his original complaint at the **Spears** hearing. See **Riley v. Collins**, 828 F.2d 306, 307 (5th Cir. 1987) (claims asserted at a **Spears** hearing supersede those made in complaint).⁴

III.

For the foregoing reasons, the judgment is

AFFIRMED.

⁴ In another proceeding, Murphy was ordered to file no further complaints in the United States District Court for the Southern District of Texas until he obtains the prior consent of a district court judge or magistrate judge in that district. See **Murphy v. Collins**, 26 F.3d 541, 542 (5th Cir. 1994). Murphy filed the instant action prior to the imposition of that sanction order.