

UNITED STATES COURT OF APPEALS  
for the Fifth Circuit

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No. 94-30442  
Summary Calendar

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EDDIE GENE EVANS,

Plaintiff-Appellant,

VERSUS

MICHAEL TURNER, Shift Supervisor  
Captain, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Middle District of Louisiana  
(93 CV 289 A1)

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June 21, 1995

Before DUHÉ, WIENER, and STEWART, Circuit Judges.

PER CURIAM:<sup>1</sup>

Evans, a Louisiana prisoner, brought an action under 42 U.S.C. § 1983 against various persons connected with the Louisiana prison system contending that his Constitutional rights were violated in the following ways:

1. Portable toilets and hand washing facilities were not provided for use of inmate field workers in violation of OSHA regulations.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

2. Maximum security inmates were not afforded the same educational, vocational, and religious opportunities and library access as medium security inmates.

3. His classification hearing was unfair.

4. He received inadequate medical treatment.

5. Portable radios for sale in the prison commissary were inferior and too highly priced.

Appellant sought money damages. The district court dismissed his claims on summary judgment and for failure to exhaust administrative remedies. Evans appeals. We affirm.

There is nothing in the OSHA itself or its regulations to support the claim that it is applicable to state prison farms. Even if it were, we have held that OSHA does not give rise to a private cause of action. Jeter v. St. Regis Paper Company, 507 F.2d 973 (5th Cir. 1975).

Evans is not denied equal protection by his classification as a maximum security inmate. He is treated the same as all other inmates so classified. See City of Cleburne v. Cleburne Living Center, Inc., 473 U.S. (1985). The State's action in classifying him is rationally related to the achievement of legitimate goals. Richardson v. Belcher, 92 S.Ct. 254, 258 (1971). Classification is the duty of the Louisiana Department of Corrections and inmates have no right to a particular classification under state law. McGruder v. Phelps, 608 F.2d 1023 (5th Cir. 1979).

Appellant's claims regarding the price and quality of radios for sale at the prison fail simply because an inmate has no constitutional right to purchase a radio or to have one in his possession.

This court has only recently decided two cases which fully dispose of the question of the need to exhaust administrative remedies before bringing his inadequate medical care claim. Marsh v. Jones, No. 94-30458 (5th Cir. June 2, 1995); Arvie v. Stalder, No. 94-30151 (5th. Cir. June 2, 1995). Exhaustion is required.

The remainder of the claims raised are frivolous and will not be addressed. The district court correctly dismissed many of the defendants because they were never served with the complaint and summons.

AFFIRMED.