

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40328
Summary Calendar

ANTHONY R. FREEMAN,

Plaintiff-Appellant,

versus

J.E. ALFORD, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
(6:93-CV-149)

(February 8, 1995)

Before JONES, BARKSDALE and BENAVIDES, Circuit Judges.

PER CURIAM:*

Appellant Freeman challenges the dismissal of his civil rights complaint against various officers and medical personnel at the Michael Unit of the Texas Department of Criminal Justice. He complains that the prison officers and medical personnel uniformly treated him with deliberate indifference toward his shoulder problem, exacerbating it and inflicting on him great pain. He also

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

alleged he was denied due process in a prison disciplinary proceeding that arose from his failure to do one work assignment. He contends as well that he was denied access to the courts because one of his court pleadings was not accepted for mailing by the prison. The magistrate judge to whom this case was assigned held a Spears hearing, took testimony from prison officials and reviewed Freeman's prison medical and disciplinary records. He filed a thorough opinion explaining the legal shortcomings of Freeman's complaint. The district court adopted his recommendations and dismissed the case as frivolous pursuant to 28 U.S.C. § 1915(d). See Denton v. Hernandez, ____ U.S. ____, 112 S. Ct. 1728 (1992).

This court has reviewed Freeman's appellate brief, together with the underlying record, with care. We cannot find error in the magistrate judge's assessment of Freeman's claims. From a constitutional standpoint, the prison officials did not exhibit deliberate indifference to his medical condition. His work assignments generally comported with the physical limitations that had been determined at the time. Dr. Rasberry significantly reduced Freeman's work classification. On one occasion when Freeman was required to do work beyond that classification, i.e., the tree-chopping incident, Freeman refused. He was cited with a disciplinary infraction for this event, but it was reversed on later appeal. Although the prison officials confiscated one set of Freeman's court pleadings, a copy of the pleading was later submitted to the court and he was not in fact prejudiced in

pursuing his lawsuit, so he suffered no unconstitutional denial of access to the courts.

Freeman may disagree with the level of medical care or the type of work assignments he received. A mere disagreement, however, does not begin to demonstrate that the prison officials acted with deliberate indifference or inflicted cruel and unusual punishment upon him. He has produced no evidence to sustain his contentions aside from his conclusional suppositions.

The judgment of the district court is **AFFIRMED**.¹

¹ Freeman's Motion to Proceed IFP is **DENIED** as unnecessary; his Motion for a Court-Ordered Transcript is also **DENIED**, inasmuch as this court had access to the audio tape of the Spears hearing and an informal transcript thereof.