

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-40431  
Conference Calendar

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ROY GENE FRANKLIN,

Plaintiff-Appellant,

versus

J.B. ROLLO, Captain,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 9:93-CV-067  
- - - - -

(January 25, 1995)

Before POLITZ, Chief Judge, and HIGGINBOTHAM and DeMOSS,  
Circuit Judges.

PER CURIAM:\*

Roy Gene Franklin filed a in forma pauperis (IFP) civil rights complaint, 42 U.S.C. § 1983, alleging that he was denied due process during a disciplinary proceeding. The district court determined that he received a procedurally adequate hearing and dismissed his complaint as frivolous.

The federal courts have a narrow role in the review of prison proceedings. Stewart v. Thigpen, 730 F.2d 1002, 1005 (5th Cir. 1984). If a prisoner is provided a procedurally adequate

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

hearing prior to the imposition of disciplinary sanctions, there is no constitutional violation. Id. at 1005-06. When a prisoner is subject to the loss of good-time credit, procedural due process requires that the prisoner receive written notice of the charges at least 24 hours before the hearing; that he receive a written statement of the decision and evidence relied on by the disciplinary board; and that he be permitted to call witnesses and present documentary evidence if doing so would not present a hazard to institutional safety or correctional goals. Wolff v. McDonnell, 418 U.S. 539, 564-65, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974).

Franklin argues that he was denied due process because he was not permitted to proceed pro se during the disciplinary hearing. Franklin was appointed counsel substitute at his request. He provided his counsel substitute with his own statement and witness statements, and these documents were considered by the disciplinary officer. Counsel substitute also conducted an independent investigation and interviewed Franklin's inmate witnesses. Contrary to Franklin's contention that counsel substitute is appointed only if an inmate is illiterate or the case is complex, the prison regulations provide for the appointment of counsel substitute at an inmate's request. Franklin has not shown that he was denied due process because he was appointed counsel substitute.

A state statute or regulation creates a protected liberty interest for a prisoner when it uses mandatory language to place a substantive limit on official discretion. See Olim v.

Wakinekona, 461 U.S. 238, 249, 103 S. Ct. 1741, 75 L. Ed. 2d 813 (1983). The regulation Franklin relies on does not require prison officials to permit a prisoner to proceed pro se, but rather provides the circumstances under which a prisoner is entitled to counsel substitute. Franklin has not shown that the regulations created a liberty interest in proceeding pro se.

Franklin also argues that he was denied due process because he was not given a copy of form I-210, an internal form completed by the charging officer. Due process requires only that the inmate receive written notice of the charges against him. See Wolff, 418 U.S. at 564. Franklin received notice of the charges, and therefore cannot demonstrate that he was denied due process because he did not receive a copy of form I-210.

Finally, Franklin argues that he was not provided with adequate written findings to support the disciplinary officer's finding. The disciplinary officer must provide a written statement of the decision and the evidence relied on. Wolff, 418 U.S. at 564-65. Captain Rollo provided Franklin with a written statement indicating that he relied on the accusing officer's report and testimony to support his finding, and explaining that he imposed the particular punishment because of the nature of the offense and Franklin's prior history of a similar offense. Captain Rollo complied with Wolff.

The judgment of the district court is AFFIRMED.