

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 94-40448  
Summary Calendar

---

MICHAEL WEBB, SR.,

Plaintiff-Appellant,

versus

JEFFERSON COUNTY CORRECTIONAL FACILITY, ET AL.,

Defendants-Appellees.

---

Appeals from the United States District Court for the  
Eastern District of Texas  
(1:93-CV-538)

---

(August 1, 1994)

Before GARWOOD, HIGGINBOTHAM and DAVIS, Circuit Judges.\*

PER CURIAM:

For the reasons stated in the magistrate's report, to which plaintiff-appellant Webb did not object, the district court correctly dismissed Webb's *in forma pauperis* suit as frivolous under 28 U.S.C. § 1915(d). Contrary to Webb's argument on appeal, he was afforded the opportunity to amend his complaint, was given

---

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

specific directions in that regard, and his amended complaint, and the medical records he submitted with it, were fully considered. Under the circumstances, a hearing under *Spears v. McCotter*, 706 F.2d 179 (5th Cir. 1983) was not necessary. Webb's complaints on appeal respecting the law library and jail overcrowding are unavailing since they were not raised below. The fleeting mention below of racism is not urged on appeal. The complaints about Dr. Shehe are irrelevant as he was not named as a defendant; moreover, those events occurred before Webb came to defendant Jefferson County Correctional Facility and do not concern the only other three named defendants, Dr. Gupta, Dr. Henderson and St. Elizabeth's Hospital. Further, as to the latter two, nothing is alleged even suggesting they were state actors, and as to Jefferson County Correctional Facility nothing is alleged even suggesting it is a legal entity capable of being sued. As the magistrate noted, Webb's amended complaint shows he received frequent medical attention and suggests nothing more than, at most, disagreement with Drs Gupta's and Henderson's medical opinions and possibly negligence on their part. There was no error in failing to appoint counsel.

The district court properly warned Webb against filing further frivolous lawsuits. We repeat that warning as to appeals, as this appeal is likewise frivolous.

The judgment of the district court is

AFFIRMED.