

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60683
Summary Calendar

BILLY WALLS,

Plaintiff-Appellant,

versus

JENNINGS L. JACKSON, ET AL.,

Defendant-Appellee.

Appeal from the United States District Court for the
Southern District of Texas
(CA-C94-147)

(February 6, 1995)

Before GOLDBERG, JOLLY, and JONES, Circuit Judges.

PER CURIAM:*

Appellant Billy Walls filed a suit against two correctional officers of the Texas Department of Criminal Justice ("TDCJ"). Walls alleged that the defendants used excessive force, that he was denied access to a copy of his grievance complaint, and that he was denied adequate medical care. The district court dismissed the denial of access to grievance procedures and the inadequate medical

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

care claim, but permitted the excessive force claim to continue. Walls appeals the district court's dismissal of his claims. Finding no jurisdiction we dismiss Walls' appeal.

BACKGROUND

Walls is an inmate of the TDCJ, McConnell Unit. On August 1993, Walls claims that he was beaten by Officers Jackson and Martinez, both of the McConnell Unit, as he was coming out of the shower. Walls believed that this altercation was precipitated by his earlier assault of another corrections officer. After the assault, Walls filed a grievance report. When Walls later requested a copy of his grievance report, he was told that he would have to pay for his copy.

The district court granted Walls' in forma pauperis motion and ordered a Spears hearing. At this hearing, the district court, after hearing from Walls, permitted the excessive force claim to continue, and dismissed Walls' remaining claims. The district court dismissed Walls' denial of access to grievance procedure claims because there it found the TDCJ's requirement of a fee for copies of a report to be permissible. Walls' inadequate medical care claim was based on his testing positive for tuberculosis on a skin test without receiving any follow-up treatment. After hearing from Walls and a medical representative of the TDCJ, the district court found that Walls was receiving adequate medical care, and dismissed that claim. Walls now appeals the dismissal of these two claims.

DISCUSSION

Federal Rule of Civil Procedure 54(b) states that an order that adjudicates fewer than all claims presented is not appealable unless there is evidence of the district court's clear intent to enter a partial final judgment on the adjudicated claims. Kelly v. Lee's Old Fashioned Hamburgers, Inc., 908 F.2d 1218, 1220 (5th Cir. 1990). The district court dismissed only two of Walls' claims, permitting the excessive force claim to continue. Since there is no indication in the record that the district court intended to enter a final judgment as to the denial of access to grievance procedures and inadequate medical care claims, this court lacks jurisdiction to entertain the appeal of these dismissals. These issues will be appealable once all claims are fully adjudicated, but not until then. As such, Walls' appeal is DISMISSED.