IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60852
Conference Calendar

JAMES BERNARD LAWSON,

Plaintiff-Appellant,

versus

ROBBIE STEVENS,

Defendant-Appellee.

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Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:94-cv-335 LN

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June 30, 1995

Before JONES, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:[*]

James Lawson appeals the dismissal of his action under 42 U.S.C. § 1983 as frivolous. A reviewing court will disturb a district court's dismissal of a pauper's complaint as frivolous only on finding an abuse of discretion. A district court may dismiss a complaint as frivolous "`where it lacks an arguable basis either in law or in fact.'" *Denton v. Hernandez*, 112 S. Ct. 1728, 1733-34 (1992)(quoting *Neitzke v. Williams*, 490 U.S. 319, 325, (1989)).

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

Lawson complains of racial taunting by Stevens, but alleges no injury either physical or psychological. Verbal harassment alone does not give rise to a claim pursuant to 42 U.S.C. § 1983. *McFadden v. Lucas*, 713 F.2d 143, 146 (5th Cir.), *cert. denied*, 464 U.S. 998 (1983). Although it is an open question in this circuit whether the Eighth Amendment protects individuals against psychological injury, *Smith v. Aldingers*, 999 F.2d 109, 110 (5th Cir. 1993), we do not reach that question because no injury was alleged.

Use of restraining devices by prison officials "constitute[s] a rational security measure and cannot be considered cruel and unusual punishment unless great discomfort is occasioned deliberately as punishment or mindlessly, with indifference to the prisoner's humanity." *Jackson v. Cain*, 864 F.2d 1235, 1243 (5th Cir. 1989). This court recognizes that shackles and restraints are justified by escape risks. *Id*. at 1243-44; *Fulford v. King*, 692 F.2d 11, 14 (5th Cir. 1982). Additionally, a prisoner must demonstrate some injury to recover in a § 1983 action based on an unreasonable use of force. *Knight v. Caldwell*, 970 F.2d 1430, 1432 (5th Cir. 1992), *cert. denied*, 113 S. Ct. 1298 (1993).

The alleged one-half hour delay in opening Lawson's leg irons after the jail transfer does not constitute an arguable Eighth Amendment violation. Lawson concedes that he was not harmed by the leg irons. Additionally, the use of restraining devices for prisoner transportation is generally acceptable. *Jackson*, 864 F.2d at 1243-44. Lawson's contention regarding the

leg irons is without arguable basis in law and is frivolous. Further, whatever indignation Lawson felt because of Stevens's alleged taunting, that indignation does not rise to the level of an arguable violation of the Eighth Amendment. Because Lawson's appeal is frivolous, it is DISMISSED.

Lawson is warned that he will be sanctioned if he files frivolous appeals in the future. *See Smith v. McCleod*, 946 F.2d 417, 418 (5th Cir. 1991); *Jackson v. Carpenter*, 921 F.2d 68, 69 (5th Cir. 1991).

DISMISSED.