

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-30083  
Conference Calendar

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WARREN S. MURPHY,

Plaintiff-Appellant,

versus

CHARLES C. FOTI, Sheriff,  
Orleans Parish, JOHN LACOUR,  
Warden, and WILLIAM SHORT,  
Warden,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. CA-94-3177-I-4  
- - - - -

June 29, 1995

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

PER CURIAM:\*

Warren S. Murphy's motion for leave to proceed in forma pauperis (IFP) is hereby DENIED. Murphy appeals the entry of judgment for the defendants in his civil rights action.

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

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

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, "the Eighth Amendment does not require `that the state use the best means available for confining its prisoners.'" *Jackson*, 864 F.2d at 1243 (quoting *Fulford*, 692 F.2d at 14 n.7).

Orleans Parish Prison (OPP) officials legitimately determined that Murphy posed a risk of escape. They were justified in using shackles to restrain Murphy. The magistrate judge found that the shackles did not prohibit Murphy from moving about his cell. Murphy does not challenge the magistrate judge's findings. Under the circumstances, the use of shackles did not constitute mindless imposition of punishment. Nor did it demonstrate indifference to Murphy's humanity. See *Jackson*, 864 F.2d at 1243. Whether OPP officials could have used leather restraints rather than leg irons is irrelevant. They need not have used the most comfortable or least restrictive means available. *Id.* Because Murphy raises no nonfrivolous issues for appeal, his appeal is  
DISMISSED.