

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-40394
Summary Calendar

DON RAY WHITE,

Plaintiff-Appellant,

versus

WAYNE SCOTT; D. GROUNDS;
B. TEAL; JEFF CALFEE;
UNIDENTIFIED LARKINS;
UNIDENTIFIED SMITH,

Defendants-Appellees.

Appeal from the United States District Court for the
Eastern District of Texas
(5:96-CV-15)

August 1, 1996

Before HIGGINBOTHAM, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Don Ray White, Texas prisoner #512713, appeals the district court's dismissal of his 42 U.S.C. § 1983 action as frivolous under 28 U.S.C. § 1915(d). White argues that the breakfast food he receives is constitutionally inadequate and constitutes cruel and

*Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

unusual punishment in violation of the Eighth Amendment. We have reviewed the record and the district court's opinion and find no abuse of discretion. Ancar v. Sara Plasma, Inc., 964 F.2d 465, 468 (5th Cir. 1992).

White's appeal is without arguable merit and is thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because his appeal is frivolous, it is DISMISSED. 5th Cir. R. 42.2. White is cautioned that any future frivolous appeals filed by him or on his behalf will invite the imposition of sanctions. White is cautioned further to review any pending appeals to ensure that they do not raise arguments that are frivolous because they have been previously decided by this court.

APPEAL DISMISSED; SANCTION WARNING ISSUED.