

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-40444
Conference Calendar

ALFRED NEAL,

Plaintiff-Appellant,

versus

KENNETH SEBERT McCANN,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:95-CV-689
- - - - -

October 23, 1996

Before POLITZ, Chief Judge, and JOLLY and HIGGINBOTHAM, Circuit Judges.

PER CURIAM:*

Alfred Neal, TDCJ #677631, appeals the dismissal of his civil-rights action following a bench trial before a magistrate judge. Neal contends that Officer Kenneth McCann used excessive force against him and that prison officials did not follow prison regulations when punishing him.

We have reviewed the record and the briefs of the parties and we find no nonfrivolous contentions. We find Neal's

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

excessive-force contention frivolous for essentially the reasons relied upon by the magistrate judge. *See Neal v. McCann*, No. 95-CV-689 (E.D. Tex. Apr. 10, 1996). Neal can show no plain error regarding his contention, raised for the first time on appeal, that prison officials did not follow their own regulations when punishing him. Failure of prison officials to follow their own regulations does not give rise to a constitutional error. *Hernandez v. Estelle*, 788 F.2d 1154, 1158 (5th Cir. 1986); *see Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428 (5th Cir. 1996)(en banc).

This appeal is frivolous. We caution Neal that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Neal is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED. 5TH CIR. R. 42.2. SANCTIONS WARNING ISSUED.