

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-50099
Summary Calendar

BILLY DALE CARTER,

Plaintiff-Appellant,

versus

GONZALES, Individually and in his Official Capacity;
BANKS, Capt., Individually and in his Official Capacity;
SAXON, Capt., Individually and in his Official Capacity;
ALLEN, Lt., Individually and in his Official Capacity;
WALDRUM, Nurse, Individually and in his Official Capacity;
WARDEN JOHN DOE,

Defendants-Appellees.

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Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-95-CV-387

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February 18, 1997

Before JONES, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:*

Billy Dale Carter, Texas prisoner # 625426, appeals the judgment of the district court granting summary judgment in favor of the defendants, denying his motion for summary judgment, and dismissing claims against all of the defendants with prejudice. We have reviewed the record and the briefs and conclude that the

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

district court did not err in granting summary judgment in favor of the defendants on the retaliation claim. We decline to review the Eighth Amendment and retaliation claims against Warden John Doe and Ms. Price for plain error. See United States v. Calverley, 37 F.3d 160, 162-63 (5th Cir. 1994) (en banc) (citing U.S. v. Olano, 507 U.S. 725, 730-37 (1993)), cert. denied, 115 S. Ct. 1266 (1995). Accordingly, the judgment of the district court is AFFIRMED. The motions for appointment of an investigator and counsel are DENIED. The motions to file an amended brief and to withdraw the motion for a temporary restraining order are GRANTED.

We repeat the sanctions imposed by this court in Carter v. Gonzales, No. 96-50248 (5th Cir. Sep. 25, 1996). Carter is barred from filing any pro se, in forma pauperis civil appeal in this court, or any pro se, in forma pauperis, initial civil pleading in any court which is subject to this court's jurisdiction, without the advance written permission of a judge of the forum court in active service. The clerk of this court and the clerks of all federal district courts in this circuit are directed to return to Carter, unfiled, any attempted submission inconsistent with this bar.

AFFIRMED; SANCTIONS REPEATED.