

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-50492
Summary Calendar

PAUL EARL DORSEY,

Plaintiff-Appellant,

versus

JOHN E. STINE; D. MOYA;
MORGAN, Capt.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. W-95-CV-334
- - - - -

October 30, 1996
Before JONES, DeMOSS and PARKER, Circuit Judges.

PER CURIAM:*

Paul Earl Dorsey, Texas prisoner # 642562, appeals the district court's dismissal of his 42 U.S.C. § 1983 action as frivolous under 28 U.S.C. § 1915(e)(2)(B)(i), formerly § 1915(d). Dorsey argues that prison officials violated his due process rights by imposing a lockdown without providing notice and a hearing. Dorsey also argues that the meals he received during

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

the lockdown were nutritionally inadequate and did not contain fresh fruit or condiments. We have reviewed the record and the district court's opinion and find no abuse of discretion in the reasoning of the district court. Dorsey v. Stine, No. W-95-CV-334 (W.D. Tex. June 20, 1995). Dorsey's conclusional allegations of weight loss raised for the first time on appeal are not supported by evidence in the record and therefore are insufficient to show that the meals he received during the lockdown were nutritionally inadequate. See United States v. Flores, 887 F.2d 543, 546 (5th Cir. 1989)(court will not enlarge the record on appeal to include matters not presented to the district court).

Dorsey'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. Dorsey is cautioned that any future frivolous appeals filed by him or on his behalf will invite the imposition of sanctions. Dorsey is cautioned further to review any pending appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED; SANCTION WARNING ISSUED.