

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-41185
Summary Calendar

DAVID RAY LEVERTON ET AL.,

Plaintiffs,

DAVID RAY LEVERTON,

Plaintiff-Appellant,

versus

TIMOTHY WEST, Etc.; ET AL.,

Defendants,

TIMOTHY WEST, Warden; TEXAS DEPARTMENT OF
CRIMINAL JUSTICE - INSTITUTIONAL DIVISION;
ROBERT MORIN, Major; HAROLD HASTY, Food Manager;
CLINT GILBERT, Sergeant; JIMMY BINGHAM, Sergeant;
DENISE MELANCON, Sergeant,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:95-CV-448

March 24, 2000

Before SMITH, BARKSDALE, and PARKER, Circuit Judges.

PER CURIAM:*

David Ray Leverton, Texas state prisoner # 373652, appeals
the district court's dismissal of his civil rights complaint as

* Pursuant to 5TH CIR. R. 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that this opinion should not be published and is not precedent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 5TH CIR.
R. 47.5.4.

frivolous. Leverton argues that the district court erred in dismissing his civil rights claims without conducting a Spears** hearing. He also argues that the district court abused its discretion in denying his motions for appointment of counsel, for class action certification, and to file a supplemental complaint.

Leverton has shown no error in the district court's dismissal of his claims without conducting a Spears hearing because Leverton developed his claims in the district court in his amended complaints. See Eason v. Thaler, 14 F.3d 8, 9-10 (5th Cir. 1994). The district court did not abuse its discretion in denying Leverton's motion for the appointment of counsel. See Ulmer v. Chancellor, 691 F.2d 209, 212-13 (5th Cir. 1992). The district court did not abuse its discretion in denying Leverton's motion for class action certification. See Fed. R. Civ. P. 23; Lightbourn v. County of El Paso, Tex., 118 F.3d 421, 425-26 & n.4 (5th Cir. 1997), cert. denied, 522 U.S. 1052 (1998). The district court also did not abuse its discretion in denying Leverton's motion for leave to file a supplemental complaint. See Fed. R. Civ. P. 15(d); Lewis v. Knutson, 699 F.2d 230, 239 (5th Cir. 1983).

AFFIRMED.

** Spears v. McCotter, 766 F.2d 179 (5th Cir. 1985).