UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 93-7400
Summary Calendar

WILL YOUNG, ET AL.,

Plaintiffs,

WILL YOUNG and
DONNIE SINGLETON,

Plaintiffs-Appellants

VERSUS

RAY MABUS, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi
(91-CV-142)

(February 22, 1994)

Before DAVIS, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:[1]

Appellants, inmates at Mississippi's state penitentiary, sued various state officials under § 1983 complaining of conditions at the prison, particularly in connection with the prison work details. Claims for damages for personal injury, and for injunctive relief were originally made. On the day of trial, the

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[1] Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

district court held a hearing at which it became clear that Appellants were not able to prove that they had sustained individual injury to support their damage claims, and that what they really sought was remedial relief to change the operation of the prison system. The district court then dismissed the suit without prejudice after informing Appellants that their remedial claims should be asserted in the ongoing class action suit involving prison conditions, Gates v. Collier, 390 F.Supp. 482 (N.D. Miss. 1975), affirmed, 525 F.2d 965 (5th Cir. 1976). The inmates appeal.[2] We affirm.

The record makes clear that none of the Appellants could offer evidence that they had sustained any real personal injury as a result of the practices of which they complained. Under these conditions, sua sponte dismissal of these § 1983 claims brought in forma pauperis was proper. See Neitzke v. Williams, 490 U.S. 319, 325, 327-28 (1989); Ancar v. Sara Plasma, Inc., 964 F.2d 465, 468 (5th Cir. 1992). The hearing made obvious that what Appellants really sought were remedial orders changing aspects of the prison system. Such orders are properly obtainable only in the Gates litigation. Green v. McKaskle, 788 F.2d 1116, 1123-24 (5th Cir. 1986).

Appellants contend that since the district court accepted the magistrate judge's Report and Recommendation, and since it recommended trial, it was error for the district court not to hold

[2] It is doubtful that Appellant Singleton's appeal is timely. Since we dispose of the matters on the merits, however, we elect not to address that issue.

the trial. We are unconvinced. That recommendation was based upon the results of the Spears hearing at which time it appeared that Appellants were prepared to offer evidence of specific injuries which would support damage claims. When it became obvious that this was not the case, it was appropriate for the district court to dismiss.

AFFIRMED.