

UNITED STATES COURT OF APPEALS Filed 8/23/96
FOR THE TENTH CIRCUIT

LARRY DON NED,

Plaintiff-Appellant,

v.

LARRY A. FIELDS, SHERI
VINCENT, R. MICHAEL CODY,
ERICA DUNN,

Defendants-Appellees.

No. 95-6376
(D.C. No. CIV-95-348-T)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before TACHA, ALDISERT,** and BALDOCK, Circuit Judges.***

Plaintiff Larry Don Ned seeks review of the district court's grant of summary judgment to defendants on his civil rights complaint. Our jurisdiction

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

** Honorable Ruggero J. Aldisert, Senior Circuit Judge, United States Court of Appeals for the Third Circuit, sitting by designation.

*** After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

over this appeal arises from 28 U.S.C. § 1291. We construe plaintiff's pro se pleadings liberally, as required by Haines v. Kerner, 404 U.S. 519, 520 (1972). We review the court's grant of summary judgment de novo, applying the same standards as the district court under Fed. R. Civ. P. 56(c). Wolf v. Prudential Ins. Co., 50 F.3d 793, 796 (10th Cir. 1995).

Plaintiff's complaint contended that defendants 1) violated his due process rights in connection with a disciplinary matter involving a magazine subscription, 2) discriminated against him on racial grounds when they refused a requested cell transfer, and 3) violated the Eighth Amendment by failing to prevent spider bites in his cell. In his response to defendant's motion to dismiss or for summary judgment, plaintiff moved for appointment of counsel and an evidentiary hearing. He also alleged that defendants 4) denied him adequate access to the courts due to their control of the law library, and 5) failed to give him proper medical treatment.

After our careful review of the record on appeal and due consideration of the parties' briefs, we conclude that the district court correctly decided this case. Therefore, for substantially the same reasons set forth in the district court's order

dated September 19, 1995, the judgment of the United States District Court for the Western District of Oklahoma is AFFIRMED. Plaintiff's motion for class certification and appointment of counsel is DENIED.

The mandate shall issue forthwith.

Entered for the Court

Bobby R. Baldock
Circuit Judge