

APR 24 1997

PATRICK FISHER
Clerk

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

JERRY L. HUNT, II,

Plaintiff-Appellant,

v.

KURTIS DOWNING, Youth Center
Worker, Atchison, KS; YOUTH CENTER
AT ATCHISON; PEGGY ROPER, Youth
Center Worker, Atchison, KS,

Defendants-Appellees.

No. 96-3153
(D.C. No. 96-3167-GTV)
(District of Kansas)

**ORDER DENYING LEAVE TO APPEAL
WITHOUT PAYMENT OF FEES**

Before **SEYMOUR**, Chief Judge; **PORFILIO**, Circuit Judge; and **MURPHY**, Circuit Judge.

Jerry L. Hunt, II, has filed an application with this court to be allowed to appeal without payment of fees. Although he has not complied with the provisions of 28 U.S.C. § 1915(a)(2), we nonetheless deny his application on the ground the appeal is legally frivolous. 28 U.S.C. § 1915(e)(2)(B)(i).

Mr. Hunt filed an action claiming his civil rights had been violated by defendants because while he was detained in a state juvenile facility in 1993, they made him sleep one night in “urinated sheets” as punishment for intentionally soiling the bed covers. The district court dismissed the complaint because it was frivolous and failed to state a claim under the Eighth Amendment, finding plaintiff alleged no facts showing defendants had acted with deliberate indifference and for the purpose of inflicting unnecessary and wanton infliction of pain. *Farmer v. Brennan*, 511 U.S. 825 (1994); *Rhodes v. Chapman*, 452 U.S. 337, 346-47 (1981). We agree with this analysis.

The application to appeal without payment of fees is **DENIED**, and the appeal is **DISMISSED**.

ENTERED FOR THE COURT

John C. Porfilio
Circuit Judge