

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

MAR 03 1989

ROBERT L. HOECKER
Clerk

JAMES M. WILLIAMS,

Plaintiff-Appellant,

v.

GARY D. MAYNARD; LARRY R. MEACHUM;
J. MIKE PRUITT,

Defendants-Appellees.

No. 87-2026
(D.C. No. 86-564-C)
(E.D. Okla.)

ORDER AND JUDGMENT*

Before ANDERSON and TACHA, Circuit Judges, and ROGERS, District Judge.**

**The Honorable Richard D. Rogers, United States District Judge for the District of Kansas, 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 cause is therefore ordered submitted without oral argument.

*This order and judgment has no precedential value and shall not be cited, or used by any court within the Tenth Circuit, except for purposes of establishing the doctrines of the law of the case, res judicata, or collateral estoppel. 10th Cir. R. 36.3.

This is an appeal from an order of the district court dismissing plaintiff's action as frivolous.

Plaintiff commenced this action in district court pursuant to 42 U.S.C. § 1983. In his complaint, plaintiff alleged that his eighth and fourteenth amendment rights were violated by defendants' actions and policy of requiring plaintiff and all other inmates in F cell house, 3 run, Protective Measures Unit of the Oklahoma State Penitentiary to wear handcuffs outside their prison cells. Plaintiff sought injunctive relief ordering defendants to cease such practice and to abolish the policy establishing this practice. After examining the Martinez report, Martinez v. Aaron, 570 F.2d 317 (10th Cir. 1978), the district court dismissed the action.

In their brief on appeal, defendants state that plaintiff is no longer housed in the Oklahoma State Penitentiary. Although the allegedly unconstitutional actions by defendants in the particular unit of the Oklahoma State Penitentiary may continue, plaintiff's request for injunctive relief no longer raises a case or controversy. See City of Los Angeles v. Lyons, 461 U.S. 95 (1983).

The district court's order of June 24, 1987, is VACATED as moot, and this appeal is DISMISSED. See Great W. Sugar Co. v. Nelson, 442 U.S. 92 (1979); United States v. Munsingwear, Inc.,

340 U.S. 36 (1950); Baker v. Bray, 701 F.2d 119, 122 (10th Cir. 1983).

The mandate shall issue forthwith.

ENTERED FOR THE COURT
PER CURIAM