

UNITED STATES COURT OF APPEALS  
For the Fifth Circuit

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No. 92-4872  
Summary Calendar

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DAN THOMAS,

Plaintiff-Appellant,

VERSUS

CHARLES K. FOSTER, Sued individually  
and in his capacity, Etc., ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
For the Eastern District of Texas

(6:92 CV 240)

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(October 25, 1993)

Before GARWOOD, SMITH, and DeMOSS, Circuit Judges.

PER CURIAM:\*

**BACKGROUND**

Thomas filed this action pro se and *in forma pauperis* (IFP) against various officials at the Texas Department of Criminal

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\* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Justice (TDCJ), alleging that they had violated his constitutional rights by interfering with his mail. His complaint was referred to a magistrate judge who conducted a hearing as required under Spears v. McCotter, 766 F.2d 179 (5th Cir. 1985). The parties consented to having the magistrate judge rule in the case, and the magistrate judge entered judgment dismissing all of Thomas's claims.

Disposition of this appeal is controlled by the recent decision of this Court in Brewer v. Wilkinson, \_\_\_ F.2d \_\_\_ (5th Cir., Sept. 22, 1993, No. 92-1718), where a panel of this Court held that violation of prison regulations requiring that a prisoner be present when his incoming legal mail is opened and inspected is not a violation of the prisoner's constitutional rights. Since that was the same claim asserted by Thomas in his complaint, the judgment of the magistrate judge is AFFIRMED.