

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-11170
Summary Calendar

BRIAN MAURICE FULLER,

Plaintiff - Appellant,

versus

JIM RICH, Warden, FCI Seagoville;
JERRY HEFTLER, Food Services Administrator;
RALPH FIGUEROA, Assistant Food Services Administrator;
RODNEY BRADFORD, Food Services Kitchen Foreman;
RALPH SQUIRE,

Defendants - Appellees.

Appeal from the United States District Court
for the Northern District of Texas
(3:94-CV-2604)

June 3, 1996

Before DAVIS, BARKSDALE and DeMOSS, Circuit Judges.

PER CURIAM:*

Proceeding *pro se* and *in forma pauperis*, federal prisoner Brian Maurice Fuller sued officials at the Federal Correctional Institution in Seagoville, Texas, complaining that the defendants violated his constitutional rights. Fuller appeals the district court's dismissal of his action.

Fuller asserts that the district court erred (1) when it found that he had not stated a valid constitutional claim arising from

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

the alleged sexual-orientation-based discrimination and (2) when it failed to address his retaliation claim against defendant Squire. We affirm the dismissal of the discrimination claim for essentially the reasons articulated by the district court; but, because the district court failed to address the retaliation claim, we vacate and remand for further proceedings with regard to it.

AFFIRMED IN PART, and VACATED AND REMANDED IN PART