

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-30626  
Summary Calendar

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CHARLES MCCRAY,

Plaintiff-Appellant,

versus

TIMOTHY WILLIAMS, Individually and in his official capacity as  
Sergeant; KELLY WARD, Individually and in his official capacity  
as Warden; RICHARD STALDER, Individually and his official  
capacity as Secretary of State of the Department of Corrections,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 97-CV-2288  
- - - - -  
November 3, 1998

Before HIGGINBOTHAM, JONES, and DENNIS, Circuit Judges.

PER CURIAM:\*

Charles McCray, Louisiana prisoner #99199, appeals the  
dismissal of his civil rights complaint for failure to state a  
claim. We affirm the dismissal of McCray's claims against  
Louisiana Department of Corrections Secretary Richard Stalder and  
David Wade Correctional Center Warden Kelly Ward. Williams v.  
Luna, 909 F.2d 121, 123 (5th Cir. 1990); see Sojourner T v.  
Edwards, 974 F.2d 27, 30 (5th Cir. 1992). The district court erred  
by dismissing McCray's claims against Sergeant Timothy Williams on

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\*Pursuant to 5TH CIR. R. 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this opinion should not be published and is not precedent except  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 5TH CIR. R. 47.5.4.

the ground that McCray had failed to state a claim for relief. See Fernandez-Montes v. Allied Pilots Ass'n, 987 F.2d 278, 284 (5th Cir. 1993); see also Lewis v. Casey, 116 S. Ct. 2174, 2177 (1996); Gartrell v. Gaylor, 981 F.2d 254, 259 (5th Cir. 1993); Woods v. Smith, 60 F.3d 1161, 1164-66 (5th Cir. 1995). Our review of the record establishes, however, that McCray has not pleaded that he has exhausted prison administrative remedies with regard to his claim against Sergeant Williams. Accordingly, pursuant to 42 U.S.C. § 1997e(a), his complaint is subject to dismissal with prejudice for purposes of proceeding in forma pauperis. Underwood v. Wilson, 151 F.3d 292, 295-96 (5th Cir. 1998); see Sojourner T., 974 F.2d at 30.

We AMEND the judgment of dismissal to reflect that the complaint is DISMISSED WITH PREJUDICE FOR PURPOSES OF PROCEEDING IN FORMA PAUPERIS, and AFFIRM AS AMENDED.

AFFIRMED AS AMENDED.