

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-40721
Summary Calendar

CURTIS LEON THOMAS, JR.,

Plaintiff-Appellant,

versus

THE TEXAS DEPT. OF CORRECTIONS, ET AL,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-95-CV-27
- - - - -

December 17, 1996

Before HIGGINBOTHAM, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Curtis Leon Thomas, #660149, appeals the dismissal of his complaint as frivolous. Assuming Thomas had a constitutional right not to have his mail delivered to or read by another inmate, at most, Thomas has alleged negligence in the handling of his mail. Negligence is not actionable under 42 U.S.C. § 1983. Daniels v. Williams, 474 U.S. 327, 328 (1986). The district court did not err in dismissing Thomas' suit on the basis that

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.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 due process clause is not implicated by a state official's negligent act causing unintended loss of or injury to life, liberty, or property. This appeal is frivolous.

We caution Thomas that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Thomas is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED. See 5th Cir. R. 42.2.

SANCTION WARNING ISSUED.