

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-50307
Conference Calendar

GEORGE V. FULLER,

Plaintiff-Appellant,

versus

GERALD GARRETT,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. A-00-CV-120-SS

October 17, 2000

Before SMITH, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

George V. Fuller, Texas prisoner # 773464, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint. Fuller argues that he was sentenced unconstitutionally to serve an additional one year and two months of imprisonment after being reincarcerated for violating his parole. He argues that this violated his due process rights and was a breach of his plea agreement. The district court dismissed Fuller's complaint as frivolous under 28 U.S.C. § 1915(e).

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

We review the district court's dismissal of a complaint as frivolous under § 1915(e)(2)(B)(i) for abuse of discretion. Harper v. Showers, 174 F.3d 716, 718 & n.3 (5th Cir. 1999). Fuller is challenging the fact or duration of his confinement. Therefore, his suit is barred by Heck v. Humphrey, 512 U.S. 477, 486-87 (1994), and the district court did not abuse its discretion in dismissing his complaint as frivolous.

AFFIRMED.