

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-40633
Conference Calendar

JOHN A. WILLIAMS,

Plaintiff-Appellant,

versus

JOHN J. EASTLAND, Attorney at Law;
DAVID DOBBS, Assistant District Attorney,
Smith County,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:01-CV-486
- - - - -

December 11, 2002

Before JOLLY, DAVIS, and JONES, Circuit Judges.

PER CURIAM:*

John A. Williams, Texas prisoner # 559903, appeals the district court's dismissal of his 42 U.S.C. § 1983 action as frivolous. Williams was convicted of aggravated sexual assault. He alleged below that the attorney who represented him at trial committed malpractice and breached his contract to represent Williams because he provided ineffective assistance of counsel.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Williams also alleged that the Assistant District Attorney (ADA) who prosecuted the case conspired with his attorney to deprive him of a fair trial and to allow him to receive an excessive sentence. The district court held that the ADA was entitled to prosecutorial immunity and that the claims against Williams' attorney were barred by Heck v. Humphrey, 512 U.S. 477 (1994), until such time as he was able to show that his conviction had been invalidated.

Williams has abandoned his claim against the ADA by failing to brief this issue on appeal. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993). He argues that the district court improperly construed his complaint as a habeas action when it was based on breach of contract and malpractice. Because Williams' claims are based on his attorney's alleged ineffective assistance, they are barred by Heck because he has not shown that his conviction has been reversed, expunged, invalidated, or otherwise called into question. Therefore, the district court did not abuse its discretion in dismissing Williams' complaint as frivolous.

AFFIRMED.