

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

April 24, 2019

Lyle W. Cayce  
Clerk

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No. 18-30623  
Summary Calendar

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JERRY PAUL FRANCIS,

Plaintiff-Appellant

v.

JAMES M. LEBLANC, SECRETARY, DEPARTMENT OF PUBLIC SAFETY  
AND CORRECTIONS; SHERYL RANATZA, The Committee on Parole and  
Pardon Board, Chairperson,

Defendants-Appellees

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Appeal from the United States District Court  
for the Middle District of Louisiana  
USDC No. 3:15-CV-411

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Before SMITH, WIENER, and WILLETT, Circuit Judges.

PER CURIAM:\*

Jerry Paul Francis, Louisiana prisoner # 86386, appeals from the district court's dismissal of his 42 U.S.C. § 1983 complaint as legally frivolous and for failure to state a claim. The district court dismissed without prejudice to Francis's right to reassert his claims in a federal habeas corpus proceeding after exhausting available state court remedies. On appeal, Francis argues

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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that (1) the Louisiana Parole and Pardon Board's denial of parole contravened *Graham v. Florida*, 560 U.S. 48 (2010), and *Miller v. Alabama*, 567 U.S. 460 (2012), and (2) his challenge is cognizable under § 1983.

We review the dismissal de novo. *See Geiger v. Jowers*, 404 F.3d 371, 373 (5th Cir. 2005). Because the Louisiana Parole and Pardon Board determined that Francis was eligible for parole and provided him with some meaningful opportunity to obtain release, he has not shown a violation under *Graham* and *Miller*. *See Graham*, 560 U.S. at 75. As his complaint was frivolous on this ground, it was properly subject to dismissal under 28 U.S.C. §§ 1915(e)(2)(B)(i) and 1915A(b)(1). *See Morris v. McAllester*, 702 F.3d 187, 189 (5th Cir. 2012). We therefore do not need to consider the district court's alternative basis for dismissal. *See Sojourner T. v. Edwards*, 974 F.2d 27, 30 (5th Cir. 1992).

Accordingly, the district court's judgment is AFFIRMED.