

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-1643
Conference Calendar

BILLY WAYNE HORTON,

Plaintiff-Appellant,

versus

JANET WRIGHT and
JOHN VANCE,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:92-CV-0370-P
- - - - -

March 16, 1993

Before KING, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:*

Billy Wayne Horton alleges that the defendants, a district attorney and assistant district attorney, selectively prosecuted him. Prosecutors are absolutely immune from damages under § 1983 for their conduct in initiating and presenting the state's case. Imbler v. Pachtman, 424 U.S. 409, 431, 96 S.Ct. 984, 47 L.Ed.2d 128 (1976). Such absolute immunity applies relative to acts done within the judicial phase of criminal proceedings, even if the

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

prosecutor has acted maliciously, wantonly, or negligently.
Rykers v. Alford, 832 F.2d 895, 897 (5th Cir. 1987).

Neither defendant could be held liable under § 1983.
Therefore, Horton's civil rights claim has no basis in law. The
district court did not abuse its discretion in dismissing the
action pursuant to 28 U.S.C. § 1915(d).

The judgment of the district court is AFFIRMED.