

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-1704  
Conference Calendar

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WILLIE PROCTOR, JR.,

Plaintiff-Appellant,

versus

OLIVIA FUQUA ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:92-CV-1341-G  
- - - - -  
(January 22, 1993)

Before GARWOOD, SMITH, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

A section 1915(d) dismissal is reviewed for an abuse of discretion. Denton v. Hernandez, \_\_\_ U.S. \_\_\_, 112 S.Ct. 1728, 1734, 118 L.Ed.2d 340 (1992). A complaint may be dismissed as frivolous if it lacks an arguable basis in law or in fact. Id. at 1733. In order to prove a claim under 42 U.S.C. § 1983, a plaintiff must show that the defendant deprived him of a right secured by the Constitution and laws of the United States while acting under color of state law. Manax v. McNamara, 842 F.2d

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\* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

808, 812 (5th Cir. 1988). Plaintiff does not allege that the defendants are state officials or that they acted in concert with a state official to deprive him of his property rights. Brummet v. Camble, 946 F.2d 1178, 1184-85 (5th Cir. 1991), cert. denied, 112 S.Ct. 2323 (1992). Because there is no legal or factual basis for asserting a claim against the defendants under § 1983, the district court did not abuse its discretion in dismissing the complaint pursuant to 28 U.S.C. § 1915(d). This appeal is without arguable merit and thus frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is dismissed. 5th Cir. R. 42.2.

APPEAL DISMISSED.