

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-2525
Conference Calendar

BENARD MARIO CLARK,

Plaintiff-Appellant,

versus

LINDA SAFLEY, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA-H-92-1396
- - - - -
(January 21, 1993)

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

PER CURIAM:*

Plaintiff-appellant Benard Clark appeals the district court's dismissal as frivolous of his claim concerning his receipt of an opened piece of legal mail.

In Richardson v. McDonnell, 841 F.2d 120, 122 (5th Cir. 1988), this Court held that a delay in processing a prisoner's outgoing legal mail did not give rise to a constitutional violation because it was an isolated incident that did not impede the inmate's access to the courts. See also Wolff v. McDonnell,

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

418 U.S. 539, 576, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974).

Although Clark's case involves incoming mail, the incident was an isolated one, and it certainly did not impede Clark's access to the courts. See Jackson v. Cain, 864 F.2d 1235, 1244 (5th Cir. 1989) (no allegation that single incident of opened mail denied inmate access to courts and no allegation that legal mail was impermissibly handled or tampered with).

Although Clark states in his brief that the tampering and the delay in receipt of this particular piece of mail damaged his legal position, he failed to indicate how. He asserts that the piece of mail was an order from the court directing him to file an affidavit of poverty, but that it was incomplete, apparently due to the opening of the envelope. Clark further asserts that he had to obtain the help of a fellow inmate in completing the form because he was uncertain of what the order was directing him to do. This is the only damage to his legal position he asserts. He does not indicate that the other action was dismissed or that he was unable to comply timely with the court's order once he received it. As such, the district court properly dismissed Clark's claim as frivolous. Ancar v. Sara Plasma, Inc., 964 F.2d 465, 468 (5th Cir. 1992).

AFFIRMED.