

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-2880
Conference Calendar

VANCE DILLON,

Plaintiff-Appellant,

versus

K. BURCHETT ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA H 92 2986
- - - - -
May 6, 1993

Before POLITZ, Chief Judge,
HIGGINBOTHAM, and DEMOSS, Circuit Judges.

PER CURIAM:*

Vance Dillon appeals the dismissal of his civil rights complaint pursuant to 28 U.S.C. § 1915(d). This Court reviews the dismissal of an in forma pauperis (IFP) complaint under § 1915(d) for abuse of discretion. Denton v. Hernandez, ___ U.S. ___, 112 S.Ct. 1728, 1734, 118 L.Ed.2d 340 (1992). An IFP complaint may be dismissed under § 1915(d) as frivolous if it lacks an arguable basis in either law or fact. Neitzke v.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Williams, 490 U.S. 319, 325, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989).

Negligent deprivation of an inmate's property through the action of a state employee does not result in a constitutional violation and does not support a claim brought under § 1983. Daniels v. Williams, 474 U.S. 327, 335-36, 106 S.Ct. 662, 88 L.Ed.2d 662 (1986). Even the intentional deprivation of property for harassment purposes does not implicate a constitutional violation if the state provides an adequate post-deprivation remedy. Hudson v. Palmer, 468 U.S. 517, 528, 533, 104 S.Ct. 3194, 82 L.Ed.2d 393 (1984); Marshall v. Norwood, 741 F.2d 761, 764 (5th Cir. 1984). Dillon has a right of action under Texas law for any alleged negligent or intentional deprivation of property. See Thompson v. Steele, 709 F.2d 381, 383 (5th Cir.), cert. denied, 464 U.S. 897 (1983); Myers v. Adams, 728 S.W.2d 771, 772 (Tex. 1987). Because there is an adequate state remedy which Dillon has not shown to be inadequate, see Marshall, 741 F.2d at 764, the district court's dismissal of Dillon's § 1983 claim was not an abuse of discretion.

The judgment is AFFIRMED.