IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-2944
Conference Calendar

ARNOLD D. TRIMBLE,

Plaintiff-Appellant,

versus

JAMES A. COLLINS, G. MOHR,
Major and E. CHRISTIE, Lt.,

Defendants-Appellees.

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Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA-H-92-2989
- - - - - - - - - -
May 6, 1993

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

PER CURIAM:*

Arnold D. Trimble, a currently incarcerated Texas State prisoner, filed suit pursuant to 42 U.S.C § 1983, asserting that he had a protected liberty interest in his custody classification. On appeal, Trimble contends that the district court's dismissal of his § 1983 action pursuant to 28 U.S.C. § 1915(d) was erroneous, and also argues that he did not receive notice that the kidnapping charge would be used, nor did he have an opportunity to "face his accusers, obtain counsel, or receive

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

due process . . . ." These additions are perhaps made in response to the district court's decision which noted that Trimble had not challenged his initial classification hearing on such grounds.

A district court may dismiss an IFP proceeding as frivolous under § 1915(d) whenever it appears that the claim lacks an arguable basis in law or fact. Ancar v. Sara Plasma, Inc., 964 F.2d 465, 468 (5th Cir. 1992). Although the district court referred to the initial classification hearing and Hewitt v. Helms, 459 U.S. 460, 476-77, n.9, 103 S.Ct. 864, 74 L.Ed.2d 675 (1983), Hewitt does not apply in such a situation. In fact, we have held that a Texas prison inmate has no protected liberty interest in his custody classification. Moody v. Baker, 857 F.2d 256, 257-58 (5th Cir.), cert. denied, 488 U.S. 985 (1988).

Although Trimble cites Tex. Stat. Ann. Art. 42.18(e) and (h) (West 1979) as creating a liberty interest, those statutory provisions pertain to obtaining pertinent inmate information and to notification of state officials of an inmate's imminent parole. Nothing in those provisions remotely establishes mandatory discretion-limiting standards that could result in the creation of a protected liberty interest. See Olim v. Wakinekona, 461 U.S. 238, 249, 103 S.Ct. 1741, 75 L.Ed.2d 813 (1983). Because Trimble has no liberty interest protected by the Due Process Cause, his claim contains no arguable basis in law or fact. See Ancar, 964 F.2d at 468.

AFFIRMED.