

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

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No. 92-8613
Summary Calendar
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JACK G. EASTLAND,

Plaintiff-Appellant,

versus

HONORABLE JOHN L. PLACKE,
and NEIL PHIFFER,

Defendants-Appellees.

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Appeal from the United States District Court for the
Western District of Texas
(A 92 CV 247)

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July 23, 1993

Before GARWOOD, BARKSDALE and DeMOSS, Circuit Judges.*

PER CURIAM:

Plaintiff-appellant Jack G. Eastland (Eastland) filed *in forma pauperis* this damage suit under 42 U.S.C. § 1983 in April 1992 against defendants John L. Placke (Placke), a state district judge, and Neil Phiffer (Phiffer), a state district attorney, alleging

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

that they wrongfully conspired with others to have him indicted and ultimately convicted in 1982 on certain state charges. A similar suit had been filed by Eastland in July 1989 in the same court against other defendants but complaining essentially about the same alleged conspiracy, and in that suit the magistrate judge, after evidentiary hearings at which Eastland was represented by appointed counsel, concluded that the suit was barred by limitations. In the instant case, the same magistrate judge recommended that the suit be dismissed as frivolous under 28 U.S.C. § 1915(d) because both defendants were protected by absolute immunity *and* because the claims were barred by limitations. The district judge in all things approved and adopted the report and recommendations of the magistrate judge, and accordingly dismissed the suit. Eastland appeals. On appeal Eastland challenges only the ruling as to absolute immunity, but does not attempt to show or even assert error in the ruling as to limitations. A dismissal under section 1915(d) may appropriately be made on limitations grounds alone. As we perceive no plain error in the limitations ruling, and it has not been challenged on appeal and is of itself independently adequate to support the judgment, the judgment is accordingly

AFFIRMED.