

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1022
Conference Calendar

LESTER EARL PAYTON,

Plaintiff-Appellant,

versus

MARK WHITTINGTON, Judge,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:92-CV-1842-P
- - - - -

June 23, 1993

Before POLITZ, Chief Judge, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM:*

Lester Earl Payton (Payton) alleges that his constitutionally protected rights were violated by a state judge's dismissal of his state-court action. He seeks damages under 42 U.S.C. § 1983. A reviewing court will disturb a district court's dismissal of a pauper's complaint as frivolous only on finding an abuse of discretion. A district court may, sua sponte, dismiss a pauper's complaint as frivolous only "where it lacks an arguable basis either in law or in fact."

Denton v. Hernandez, ___ U.S. ___, 112 S.Ct. 1728, 1733-34, 118

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

L.Ed.2d 340 (1992)(quoting Neitzke v. Williams, 490 U.S. 319, 325 (1989)).

State-court judges are absolutely immune from civil liability for their judicial activities unless they act in the "clear absence of all jurisdiction." Stump v. Sparkman, 435 U.S. 349, 356-57, 98 S.Ct. 1099, 55 L.Ed.2d 331 (1978)(quoting Bradley v. Fisher, 80 U.S. (13 Wall.) 335, 351, 20 L.Ed. 646 (1872)). The state-court judge entered judgment against Payton in a civil case. He is immune from liability for entering that judgment. Payton's complaint therefore lacks basis in law and is frivolous.

Payton accuses the district judge and the magistrate judge of perjury and conspiracy merely because they reached conclusions adverse to him. In the document considered by the district court as a motion for reconsideration, Payton accused the district judge of conspiracy and associated the district judge with the antichrist of the Biblical Apocalypse. We warn Payton that future filings, particularly frivolous appeals and unsubstantiated allegations against the judiciary, will make him subject to sanctions.

APPEAL DISMISSED. See 5th Cir. R. 42.2.