

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-1113  
Conference Calendar

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JEFFREY B. FRANKLIN, SR.,

Plaintiff-Appellant,

versus

ENNIS POLICE DEPARTMENT ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:93-CV-0081-G  
- - - - -

June 22, 1993

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

PER CURIAM:\*

Jeffrey B. Franklin appeals the dismissal of his civil rights complaint against the Ennis Police Department, its chief of police, and two officers, in which he alleged that the defendants have failed to prosecute a third person for assaulting him with a pistol.

An in forma pauperis ("IFP") complaint may be dismissed if the action is frivolous or malicious. 28 U.S.C. § 1915(d). A complaint is "frivolous" if it "lacks an arguable basis either in law or in fact." Denton v. Hernandez, \_\_\_ U.S. \_\_\_, 112 S.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Ct. 1728, 1733, 118 L. Ed. 2d 340 (1992). Section 1915(d) dismissals are reviewed for abuse of discretion. Id. at 1734.

Although Franklin contends he has been denied equal protection, he has failed to allege an actionable violation of his equal protection rights because he has no constitutional right to have another person prosecuted. Oliver v. Collins, 914 F.2d 56, 60 (5th Cir. 1990). Accordingly, the district court properly dismissed the complaint because it has no arguable basis in law.

AFFIRMED