

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1986
Conference Calendar

JERRY DUANE CLARK,

Plaintiff-Appellant,

versus

JIM BOWLES, Sheriff of
Dallas County, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:93-CV-1605-G
- - - - -
(March 22, 1994)

Before KING, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:*

Jerry Duane Clark filed this action under 42 U.S.C. § 1983 against Jim Bowles, Sheriff of Dallas County, the Medical Department of Lew Sterrett Dallas County Jail, and/or the Dallas County Health Department, alleging that the defendants had negligently deprived him of his personal property and medications. The district court dismissed his claim as frivolous under § 1915(d), holding that he had not stated a constitutional claim for deprivation of property because adequate state remedies

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

existed to redress his loss. Clark argues on appeal that the defendants' conduct was wrongful, intentional, and in bad faith and deprived him of his constitutional rights.

In Parratt v. Taylor, 451 U.S. 527, 541-44, 101 S.Ct. 1908, 68 L.Ed.2d 420 (1981), the Supreme Court held that in a case involving a negligent loss of a prisoner's property as a result of a random and unauthorized act by a state prison official, the prisoner's constitutional right to due process of law was not violated because the state's post-deprivation remedy was adequate to satisfy the requirements of due process. Hudson v. Palmer, 468 U.S. 517, 533-34, 104 S.Ct. 3194, 82 L.Ed.2d 393 (1984), extended the rule in Parratt to intentional deprivations of property.

The burden is on the plaintiff to show that the state law remedy is inadequate. Marshall v. Norwood, 741 F.2d 761, 764 (5th Cir. 1984). A Texas inmate may recover up to \$500 for his property lost or damaged by state actors. Tex. Gov't Code Ann. § 501.007 (West Supp. 1994) (renumbered from 500.007). Clark stated in his objections to the magistrate judge's report that he attempted state remedies, but he did not state what remedy he attempted or explain why it was inadequate. Clark has not demonstrated that his state law remedies are inadequate.

Clark's claim for deprivation of his property has no arguable basis in law, and the district court did not abuse its discretion in dismissing his suit as frivolous. See Denton v. Hernandez, ___ U.S. ___, 112 S.Ct. 1728, 1733-34, 118 L.Ed.2d 340 (1992).

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APPEAL DISMISSED AS FRIVOLOUS. See Fifth Cir. R. 42.2.