

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-3576  
Summary Calendar

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GEORGE WILLIAMS,

Plaintiff-Appellant,

versus

ALVIN WHITSTINE, Security Major,  
ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court for the  
Middle District of Louisiana  
(CA-92-837-B-M1)

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(January 12, 1994)

Before JOLLY, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

George Williams filed a pro se, in forma pauperis (IFP) civil rights complaint alleging that he was denied due process because he did not receive 90-day classification reviews and because the members of the classification boards were the direct supervisors of the officers who filed disciplinary reports against him. The

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

defendants initially provided documentation that Williams had exhausted his administrative remedies, but then filed a motion to withdraw the administrative record because it did not address the issues involved in the case. The defendants also filed a notice of failure to exhaust administrative remedies. The district court granted the motion to withdraw the administrative record.

In response to the defendants' notice of failure to exhaust administrative remedies Williams submitted documentation establishing that he had exhausted his claim challenging the composition of the classification review board. The documentation did not, however, include any information regarding his claim that he was denied 90-day classification reviews. The magistrate judge also granted Williams leave to amend his complaint to add a claim that the prison officials who filed the motion to withdraw the administrative record were attempting to influence the court by providing false information. The district court dismissed the claim that Williams was denied 90-day classification hearings for failure to exhaust administrative remedies; dismissed the claim that the composition of the classification review boards violated due process for lack of standing; and dismissed the claim that some of the defendants provided false information to the court as frivolous.

I

Williams argues that he administratively exhausted his challenge to the composition of the classification review board.

He does not, however, challenge the district court's dismissal of his claim that he was denied 90-day classification reviews for failure to exhaust administrative remedies. The district court dismissed only the denial of 90-day-classification-reviews claim for failure to exhaust administrative remedies. Because Williams has failed on appeal to raise or brief this issue of denial of 90-day classification reviews, it is considered abandoned. See Evans v. City of Marlin, Tex., 986 F.2d 104, 106 n.1 (5th Cir. 1993).

## II

Williams also argues that the district court improperly dismissed his due process challenge to the composition of the classification review board for lack of standing. He argues that he sought monetary damages and therefore the pending class action suit does not bar his claim.

The district court dismissed the claim because there is a pending class action suit challenging the composition of the classification review boards. A class member may not maintain a separate suit for equitable relief while the class action suit is pending. See Gillespie v. Crawford, 858 F.2d 1101, 1103 (5th Cir. 1988) (en banc). The class action suit, however, does not bar individual suits for monetary relief. Williams sought both monetary and equitable relief, and therefore the part of the judgment dismissing the due process claim for lack of standing is vacated and herewith remanded to the district court for further proceedings.

### III

Williams next argues that the district court improperly dismissed his claim that some of the defendants maliciously attempted to influence the court by falsely informing the court that he had not exhausted his administrative remedies. The district court dismissed the claim as frivolous.

A claim filed IFP can be dismissed sua sponte if it is frivolous. 28 U.S.C. § 1915(d); Cay v. Estelle, 789 F.2d 318, 323 (5th Cir. 1986). A claim is frivolous if it lacks an arguable basis in law or fact. Ancar v. Sara Plasma, Inc., 964 F.2d 465, 468 (5th Cir. 1992). This Court reviews the district court's dismissal for an abuse of discretion.

The district court did not abuse its discretion by dismissing this claim as frivolous because Williams's allegations are not factually supported by the record. Originally the defendants submitted documentation that Williams had exhausted his administrative remedies, but then filed a motion to withdraw the administrative record because it did not address the issues involved in the case. The documentation Williams submitted to establish that he exhausted his administrative remedies fails to address his denial-of-90-day-classification-reviews claim, which was the only claim dismissed for failure to exhaust administrative remedies, an issue that has now been abandoned on appeal. The defendants did not provide false information to the district court, and the district court properly dismissed the issue as frivolous.

IV

Finally, for the first time on appeal Williams argues that the magistrate judge was biased because he had sanctioned him in a previous case. We will not address this issue. U.S. v. Garcia-Pillado, 898 F.2d 36, 39 (5th Cir. 1990) (issues raised for the first time on appeal are reviewable only if they involve purely legal questions and failure to consider them would result in manifest injustice).

V

Williams has filed a motion to supplement the record with "Administrative Remedy Procedure L.S.P. # 92-4634." This document is already in the record, and therefore the motion is denied as unnecessary.

VI

We therefore AFFIRM the district court on every issue except the dismissal of Williams's claim for monetary damages on his due process challenge to the composition to the classification board, which the district court may address on remand.

AFFIRMED in part and REMANDED in part.