

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-3615  
Conference Calendar

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ROBERT E. LOVE,

Plaintiff-Appellant,

versus

RICHARD P. IEYOUB and  
JOHN HENDERSON AYRES, III,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Middle District of Louisiana  
USDC No. CA-93-677-A-M1

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(March 24, 1994)

Before KING, DAVIS, and DeMOSS, Circuit Judges.

BY THE COURT:

To proceed in forma pauperis (IFP) on appeal, Robert E. Love must show that he is a pauper and that he will present a non-frivolous appellate issue. Carson v. Polly, 689 F.2d 562, 586 (5th Cir. 1982). Love's poverty is not in question. We affirm the district court's dismissal of an IFP proceeding under § 1915(d) when it lacks an arguable basis in fact or law. Ancar v. Sara Plasma, 964 F.2d 465, 468 (5th Cir. 1992). The standard of review is abuse of discretion. Id.

The "initial assessment of the in forma pauperis plaintiff's factual allegations must be weighted in favor of the plaintiff." Denton v. Hernandez, \_\_\_ U.S. \_\_\_, 112 S.Ct. 1728, 1733, 118

L.Ed.2d 340 (1992). "[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them." Id.

Love's allegations are "wholly incredible" and have no arguable basis in fact or in law. Id. He alleged that the defendants violated state and federal laws by representing corrections personnel who were defendants in another civil rights suit Love has pending before the district court. Love maintains that Richard Ieyoub and John Ayres are prohibited from representing defendants in criminal prosecutions. He confuses his other civil rights suit with a criminal prosecution. The defendants in the instant matter represent defendants in a civil rights suit, not a criminal prosecution. IFP is DENIED.

Love has also moved for appointment of appellate counsel. No general right to counsel in civil rights actions exists. Branch v. Cole, 686 F.2d 264, 266 (5th Cir. 1982). "This Court may appoint counsel in civil rights suits presenting `exceptional circumstances.'" Cooper v. Sheriff, 929 F.2d 1078, 1084 (5th Cir. 1991) (quoting Ulmer v. Chancellor, 691 F.2d 209 (5th Cir. 1982)). No exceptional circumstances exist. Love's motion for the appointment of appellate counsel is also DENIED.

This appeal presents no issue of arguable merit and is thus frivolous. See Howard v. King, 707 F.2d 215, 219-20, (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5th Cir. R. 42.2.