

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-5152  
Summary Calendar

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STEPHEN D. AKRIDGE,

Plaintiff-Appellant,

versus

BEATRICE WOLF ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Louisiana  
(93-CV-951)

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(January 18, 1994)

Before DAVIS, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:\*

Stephen Akridge, a prisoner in the Federal Correctional Institution in Oakdale, Louisiana, filed a complaint pursuant to 42 U.S.C. § 1983 against Beatrice Wolfe and Ricky Winters, Bureau of Prisons employees. Akridge alleges that Wolfe and Winters attempted to force him into paying his \$50 assessment by threats, blackmail, acts of extortion, and punishment. One of these punishments appears to be denying Akridge telephone access.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Akridge sought to have his telephone reconnected, to have all of his back pay reinstated, and to have Wolfe and Winters fired from their jobs. The magistrate judge construed the action to be one brought under Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics, 403 U.S. 388, 397, 91 S. Ct. 1999, 29 L.Ed.2d 619 (1971).

The magistrate judge then found that Akridge had not exhausted the administrative remedies found at 28 C.F.R. § 542.10 et. seq., and recommended that the case be dismissed for failure to exhaust citing Hessbrook v. Lennon, 777 F.2d 999, 1006-07 (5th Cir. 1985). Akridge filed an objection to the report abandoning his request for injunctive relief, limiting his request to \$500 in damages. The district court reviewed the record and Akridge's objections before adopting the magistrate's recommendation and dismissing Akridge's complaint without prejudice for failure to exhaust administrative remedies.

On appeal, Akridge asserts that he does not have to exhaust his administrative remedies to seek monetary damages. In McCarthy v. Madigan, \_\_\_ U.S. \_\_\_, 112 S. Ct. 1081, 1088, 117 L.Ed.2d 291 (1991), the Supreme Court held that a federal prisoner need not exhaust Bureau of Prisons regulations before seeking money damages in a Bivens action. See also id. at 1091-92. The Supreme Court rejected Hessbrook (id. at 1084 n.1.), the sole support for the district court's conclusion. Therefore, the district court's dismissal without prejudice is VACATED and the case REMANDED for

appropriate disposition. This does not necessarily mandate a trial on the merits or preclude any form of summary disposition.