

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-5507
Conference Calendar

ESEQUIEL RODRIGUEZ,

Plaintiff-Appellant,

versus

J. E. ALFORD,

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 93-CV-143

(May 19, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

BY THE COURT:

IT IS ORDERED that Esequiel Rodriguez's motion for leave to proceed in forma pauperis (IFP) is DENIED. Rodriguez has not shown that he will present a nonfrivolous issue on appeal. Carson v. Polley, 689 F.2d 562, 568 (5th Cir. 1982). Because the appeal is frivolous, it is DISMISSED. See 5th Cir. R. 42.2.

Punishment cannot be imposed on a prisoner without due process. See Cooper v. Sheriff, Lubbock County, Tex., 929 F.2d 1078, 1084 (5th Cir. 1991). When minor disciplinary sanctions are imposed, due process requires only notice of the charges and

an opportunity to respond. Id. at 1083; see Hewitt v. Helms, 459 U.S. 460, 476, 103 S.Ct. 864, 74 L.Ed.2d 675 (1983).

The federal courts have a narrow role in the review of prison proceedings. Stewart v. Thigpen, 730 F.2d 1002, 1005 (5th Cir. 1984). If a prisoner is provided with a procedurally adequate hearing prior to the imposition of disciplinary sanctions, there is no constitutional violation. Id. at 1005-06. Federal review of the sufficiency of the evidence of prison disciplinary findings is limited to determining whether the finding is supported by any evidence at all. Id. Rodriguez admits that he did not attend the academic program and that the disciplinary officer did not accept his proffered excuse. Therefore, there is some evidence to support the finding of guilt, and Rodriguez was not punished without due process.

Rodriguez also alleges that Alford was negligent for failing to reverse the disciplinary sanction. Allegations of negligent acts cannot support liability under § 1983. Evans v. City of Marlin, Tex., 986 F.2d 104, 108 (5th Cir. 1993). Therefore, the district court properly dismissed Rodriguez's complaint to the extent Rodriguez alleged Alford was negligent.

Appeal DISMISSED.