

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-5586
Conference Calendar

WILLIE LEE BROWN,

Plaintiff-Appellant,

versus

JOHNNY JONES and
DENNIS COWAN,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 1:92-CV-303
- - - - -

(May 18, 1994)

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

PER CURIAM:*

Willie Lee Brown, a state prisoner, filed a civil rights complaint against two police officers, Johnny Jones and Dennis Cowan, in which he alleged that Jones and Cowan perjured themselves at a pre-trial hearing in his state criminal case. The district court dismissed the complaint as frivolous pursuant to 28 U.S.C. § 1915(d) because the claim had prescribed under Louisiana law. An in forma pauperis complaint may be dismissed

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

as frivolous pursuant to § 1915(d) if it has no arguable basis in law or in fact. Booker v. Koonce, 2 F.3d 114, 115 (5th Cir. 1993); see Denton v. Hernandez, ___ U.S. ___, 112 S. Ct. 1728, 1733, 118 L. Ed. 2d 340 (1992).

We do not reach the question whether Brown's claim has prescribed because Jones and Cowan are entitled to absolute immunity from suit for claims related to their testimony. See Serio v. Louisiana State Bd. of Pardons, 821 F.2d 1112, 1114-15, 1118 (5th Cir. 1987). "Witnesses, including police officers, are . . . shielded by absolute immunity from liability for their allegedly perjurious testimony." Enlow v. Tishomingo County, 962 F.2d 501, 511 (5th Cir. 1992) (citing Briscoe v. LaHue, 460 U.S. 325, 346, 103 S. Ct. 1108, 1121, 75 L. Ed. 2d 96 (1983)). Because Jones and Cowan are absolutely immune from suit for damages caused by their allegedly perjurious testimony, Brown's civil rights action had no arguable basis in law and was properly dismissed as frivolous. See Booker, 2 F.3d at 115. We note that the dismissal is without prejudice to Brown's rights to pursue whatever habeas remedies he may have.

AFFIRMED.