

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7421
Conference Calendar

BOBBY REED,

Plaintiff-Appellant,

versus

J. STEWART MURPHY,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 4:92-CV-272
- - - - -

August 20, 1993

Before JOLLY, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:*

Bobby Reed, a prisoner in the Mississippi Department of Corrections at Parchman, Mississippi, filed a complaint pursuant to 42 U.S.C. § 1983 against J. Stewart Murphy, Chairman of the Mississippi Parole Board. Reed asserts that his case was continued for three years because the parole board found that it was "not in the best interest of society that [Reed] be paroled at this time." The parole board listed "[s]erious nature of offense" and "[p]arole unsatisfactory/violated (5)" as its

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

reasons for continuing Reed's case. In his suit, Reed "is seeking a delineated standard set forth by the defendant informing plaintiff what he must do or what he must not do in order to be afforded his equal protection right to be considered for release on parole." Reed argues that he had a liberty interest in parole because the parole board granted him a hearing and denied due process by not giving him a list of activities that would result in his parole.

The district court correctly dismissed Reed's case with prejudice because the Mississippi Parole Statute does not create a liberty interest in parole. Scales v. Mississippi State Parole Bd., 831 F.2d 565, 566 (1987). The statute confers absolute discretion on the parole board and continuing Reed's case was not beyond the scope of that discretion. See id. If the legislature had set forth criteria under which parole "should" be granted, rather than "may" be granted, Reed would have a liberty interest. Id. Reed is attempting to have the Court force the parole board to do what the Mississippi State Legislature has refused to do, put forth mandatory criteria creating a liberty interest in parole. Reed's claims are frivolous and entirely without merit.

APPEAL DISMISSED. See 5th Cir. R. 42.2.