

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-8688
Conference Calendar

RICHARD CASTILLO LOPEZ,

Plaintiff-Appellant,

versus

DIRECTOR, BOARD OF PARDONS
AND PAROLES,

Defendant-Appellee.

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Appeal from the United States District Court
for the Western District of Texas
USDC No. A-93-CA-129JN

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(September 22, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Richard Castillo Lopez, a prisoner in the Texas Department of Criminal Justice - Institutional Division (TDCJ-ID) filed a civil rights action under 42 U.S.C. § 1983 against the director and an employee of the Texas Board of Pardons and Paroles. The district court granted the defendants' motion to dismiss for failure to state a claim upon which relief may be granted under Fed. R. Civ. P. 12(b)(6). Such dismissals are reviewed de novo on appeal. Giddings v. Chandler, 979 F.2d 1104, 1106 (5th Cir. 1992). A dismissal under Rule 12(b)(6) will be upheld on appeal

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

"if it appears that no relief could be granted under any set of facts that could be proven consistent with the allegations." Id. (internal quotations and citation omitted).

Lopez alleged that a friend of his telephoned the Board of Pardons and Paroles and was given confidential information in violation of Tex. Code Crim. Proc. Ann. art. 42.18 § 18. Lopez argues that this was a violation of his due process rights. Assuming, but not deciding, that Lopez does have a property interest in the confidentiality of the information in possession of the Board of Pardons and Paroles, negligent deprivation of property through the action of a state employee does not result in a violation of the Due Process Clause of the Fourteenth Amendment and does not support such a claim brought under § 1983. Daniels v. Williams, 474 U.S. 327, 335-36, 106 S. Ct. 662, 88 L. Ed. 2d 662 (1986).

AFFIRMED.