

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-8753

DONALD STADTNER,

Plaintiff-Appellant,

v.

UNIVERSITY OF TEXAS SYSTEM,
ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Texas
(93-CA-19SS)

(December 21, 1994)

ON PETITION FOR REHEARING

Before WISDOM, KING and DUHÉ, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing filed in the above case is GRANTED in part. The sentence holding that Stadtner's claims for damages under the Texas Constitution for violation of his rights to procedural and substantive due process were properly dismissed for failure to state a claim upon which relief can be granted, and the accompanying citation to Gillum, are DELETED; and the last sentence of the opinion is DELETED. In lieu thereof, the following paragraph is inserted:

The portion of the district court's judgment dismissing Stadtner's claims under the Texas Constitution is REVERSED and the case is REMANDED to the district court with instructions to REMAND those claims to the state court. See Idoux v. Lamar University System, No. 93-5163, slip op. at 13-15 (5th Cir. Sept. 28, 1994) (per curiam) (unpublished opinion). In all other respects, the district court's judgment is AFFIRMED. Costs shall be borne by Stadtner.