

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-10150
Conference Calendar

RICHEY DALE ALLEN,

Plaintiff-Appellant,

versus

NORTHWEST TEXAS HOSPITAL,
Pickens Center, Amarillo,
Texas,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:92-CV-60
- - - - -

(July 20, 1994)

Before POLITZ, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

An in forma pauperis suit may be dismissed as frivolous if it lacks an arguable basis in law or fact. 28 U.S.C. § 1915(d); Denton v. Hernandez, ___ U.S. ___, 112 S.Ct. 1728, 1733, 118 L.Ed.2d 340 (1992). The district court has "not only the authority to dismiss a claim based on a indisputably meritless legal theory, but also the unusual power to pierce the veil of the complaint's factual allegations and dismiss those claims whose factual contentions are clearly baseless." Macias v. Raul

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

A. (Unknown), Badge No. 153, ___ F.3d ___, No. 93-8354, 1994 WL 232885 at *2 (5th Cir. June 16, 1994) (quoting Neitzke v. Williams, 490 U.S. 319, 327, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989)).

The district court did not abuse its discretion by dismissing Rickey Dale Allen's complaint as frivolous because Allen's amended pleadings, filed in response to the magistrate judge's recommendation that Allen's initial pleadings failed to allege a constitutional violation, contradicted Allen's initial pleadings and testimony at the Spears** hearing. See Pedraza v. Meyer, 919 F.2d 317, 319 (5th Cir. 1990).

AFFIRMED.

**Spears v. McCotter, 766 F.2d 179 (5th Cir. 1985).