

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-10191
Conference Calendar

SHANNON THOMAS,

Plaintiff-Appellant,

versus

JACK KYLE, Chairman, Board
of Pardons and Paroles,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:93-cv-14
- - - - -

(May 18, 1994)

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

PER CURIAM:*

Thomas argues that the district court abused its discretion by dismissing the suit. A district court may sua sponte dismiss a pauper's complaint as frivolous when the complaint lacks an arguable basis in either law or in fact. This Court will disturb such a dismissal only on finding an abuse of discretion. Denton v. Hernandez, ____ U.S. ____, 112 S.Ct. 1728, 1733-34, 118 L.Ed.2d 340 (1992).

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Shannon Thomas has no liberty interest in being paroled. Gilbertson v. Texas Bd. of Pardons and Paroles, 993 F.2d 74, 75 (5th Cir. 1993). Therefore, no constitutional issue arises out of the denial of parole. See id. Because Thomas does not raise a constitutional issue, neither 42 U.S.C. § 1983 nor a habeas corpus petition can give him relief. Id. The district court's dismissal of Thomas's claims was not an abuse of discretion. The appeal is without arguable merit and thus frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. 5th Cir. R. 42.2.