

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-10451
Conference Calendar

RITCHIE LYN ROBINSON,

Plaintiff-Appellant,

versus

D.L. "SONNY" KEESEE,
Sheriff, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:94-CV-33-C
- - - - -

(July 19, 1994)

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

PER CURIAM:*

A complaint filed in forma pauperis (IFP) can be dismissed by the court sua sponte if the complaint is frivolous. 28 U.S.C. § 1915(d). A complaint is "`frivolous where it lacks an arguable basis either in law or in fact.`" Denton v. Hernandez, ___U.S.___, 112 S.Ct. 1728, 1733, 118 L.Ed.2d 340 (1992) (citing Neitzke v. Williams, 490 U.S. 319, 325, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989)). This Court reviews a § 1915(d) dismissal for abuse of discretion. Denton, 112 S.Ct. at 1734.

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.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 negligent act causing an unintended loss of property does not rise to the level of a due process violation. Lewis v. Woods, 848 F.2d 649, 652 (5th Cir. 1988). Ritchie Lyn Robinson has a right of action under Texas law for negligent deprivations of property. Thompson v. Steele, 709 F.2d 381, 383 (5th Cir.), cert. denied, 464 U.S. 897 (1983).

Robinson alleges that the defendants' careless and unprofessional handling of the back brace have violated his constitutional right to have his property. He does not relate any intentional acts on the part of the employees that resulted in the lost brace. Therefore, Robinson does not allege anything other than negligence on the part of the employees who allegedly lost his brace. The district court correctly dismissed the complaint as frivolous because it lacks an arguable basis in law.

AFFIRMED.