

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 94-10508  
Conference Calendar

---

DAVID DANIEL CLARK,

Plaintiff-Appellant,

versus

SHERIFF HARRIS ET AL.,

Defendants-Appellees.

- - - - -  
Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:93-CV-2500-R  
- - - - -

(July 20, 1994)

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

PER CURIAM:\*

A complaint filed in forma pauperis may be dismissed as frivolous pursuant to 28 U.S.C. § 1915(d) if it has no arguable basis in law or in fact. Booker v. Koonce, 2 F.3d 114, 115 (5th Cir. 1993); see Denton v. Hernandez, \_\_\_ U.S. \_\_\_, 112 S.Ct. 1728, 1733, 118 L.Ed.2d 340 (1992). This court reviews a § 1915(d) dismissal under the abuse-of-discretion standard. Denton, 112 S.Ct. at 1734.

David Clark does not raise in his brief the sole issue he presented in his 42 U.S.C. § 1983 complaint, namely that of

---

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

interference with his legal mail. Consequently, this issue is deemed abandoned. Eason v. Thaler, 14 F.3d 8, 9 n.1 (5th Cir. 1994). Rather, Clark attempts to challenge the conditions of his confinement while he was being held for ten days in a holding cell. Because this additional claim was not presented to the district judge, this Court declines to address it for the first time on appeal. Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991) (issues raised for the first time on appeal will not be addressed unless they involve purely legal issues and failure to consider them will result in manifest injustice).

The district court's dismissal of Clark's complaint was not an abuse of discretion. This appeal is without arguable merit and thus frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983).

APPEAL DISMISSED.