

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-20080
Conference Calendar

NOFFIE JOHNSON,

Plaintiff-Appellant,

versus

PATRICIA ALEXANDER,
R. OWENS and R.G. BELANGER,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA-H-93-2744
- - - - -

(July 19, 1994)

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

PER CURIAM:*

A frivolous IFP complaint may be dismissed. 28 U.S.C. § 1915(d); Booker v. Koonce, 2 F.3d 114, 115 (5th Cir. 1993). A claim that has no arguable basis in law or fact is subject to such a dismissal. Booker, 2 F.3d at 115. We review for abuse of discretion. Id.

A prisoner's allegation of factual innocence of a prison administrative offense is not actionable under 42 U.S.C. § 1983 if his disciplinary proceeding was otherwise fair and adequate.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Collins v. King, 743 F.2d 248, 253-54 (5th Cir. 1984). For a minor offense, the process that is due consists of notice and an opportunity to present a statement. Hewitt v. Helms, 459 U.S. 460, 476, 103 S. Ct. 864, 74 L. Ed. 2d 675 (1983); Cooper v. Sheriff, Lubbock County, 929 F.2d 1078, 1083 (5th Cir. 1991).

According to Texas prisoner Noffie Johnson's allegations, he was afforded the process due him. His allegation of innocence is not actionable. Accordingly, the district court's dismissal for frivolousness was not an abuse of discretion.

When the result is obvious or the arguments of error are wholly without merit, an appeal is frivolous. Coghlan v. Starkey, 852 F.2d 806, 811 (5th Cir. 1988). This appeal is frivolous and is dismissed as such. See 5th Cir. R. 42.2.

Johnson does not challenge the district court's imposition of sanctions for the filing of the instant lawsuit. We warn Johnson that the filing of frivolous appeals will result in additional sanctions. E.g., Smith v. McCleod, 946 F.2d 417, 418 (5th Cir. 1991); Jackson v. Carpenter, 921 F.2d 68, 69 (5th Cir. 1991). If Johnson has any other appeals pending in this Court at this time, he should review them in light of the foregoing warning and move to withdraw any appeal that is frivolous.

APPEAL DISMISSED.