

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-20391  
Conference Calendar

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LANDON RAY WARMSLEY,

Plaintiff-Appellant,

versus

CHARLES D. GODWIN,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. CA-H-92-1935  
- - - - -  
(September 21, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Landon Ray Warmasley challenges the district court's dismissal under 28 U.S.C. § 1915(d) of his civil rights complaint. A complaint may be dismissed as frivolous if it lacks an arguable basis in law or fact. Denton v. Hernandez, \_\_\_ U.S. \_\_\_, 112 S. Ct. 1728, 1733, 118 L. Ed. 2d 340 (1992). This Court reviews such a dismissal for abuse of discretion. See id., 112 S. Ct. at 1734.

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\* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.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 prisoner's constitutional right of access to the courts encompasses access to law libraries. See Bounds v. Smith, 430 U.S. 817, 828, 97 S. Ct. 1491, 52 L. Ed. 2d 72 (1977). However, "this right . . . encompass[es no] more than the ability of an inmate to prepare and transmit a necessary legal document to a court." Brewer v. Wilkinson, 3 F.3d 816, 821 (5th Cir. 1993), cert. denied, 114 S. Ct. 1081 (1994). Further, "[a] denial-of-access-to-the-courts claim is not valid if a litigant's position is not prejudiced by the alleged violation." Henthorn v. Swinson, 955 F.2d 351, 354 (5th Cir.), cert. denied, 112 S. Ct. 2974 (1992).

Under the well-developed facts as alleged by Warmsley, he received library time to work on his appellate brief after his initial two requests were denied, he filed his appellate brief on time, and he opted to use potential library time pursuing other endeavors. As such, the facts do not establish a constitutional violation. See Henthorn, 955 F.2d at 354. Therefore, the district court did not abuse its discretion in dismissing the complaint as frivolous. See Denton, 112 S. Ct. 1734.

AFFIRMED.