

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-20740  
Conference Calendar

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BRET JENKINS,

Plaintiff-Appellant,

versus

WAYNE SCOTT, Director,  
Texas Department of Criminal Justice,  
Institutional Division,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. CA-H-94-0359

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(January 24, 1995)

Before POLITZ, Chief Judge, and HIGGINBOTHAM and DeMOSS,  
Circuit Judges.

PER CURIAM:\*

Neither negligent nor intentional deprivations of property by state officials rise to the level of due process violations if state law provides adequate post-deprivation remedies. Hudson v. Palmer, 468 U.S. 517, 533-34, 104 S. Ct. 3194, 82 L. Ed. 2d 393 (1984); Marshall v. Norwood, 741 F.2d 761, 763-64 (5th Cir. 1984). Texas provides an adequate postdeprivation remedy for Bret Jenkins' property loss claim. See Tex. Civ. Prac. & Rem.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Code Ann. § 101.021 (West 1986). Therefore, the dismissal of Jenkins' complaint pursuant to 28 U.S.C. § 1915(d) was within the discretion of the district court. Ancar v. Sara Plasma, Inc., 964 F.2d 465, 468 (5th Cir. 1992). The district court was not required to hold an evidentiary hearing prior to dismissing the suit because the record was adequate to evaluate Jenkins' claim. See Wiley v. Puckett, 969 F.2d 86, 98 (5th Cir. 1992) (§ 2254 case).

The Court declines to address Jenkins' denial-of-access-to-the-courts claim because it was not presented to the district court. Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991).

AFFIRMED.