

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-20798
Conference Calendar

REGINALD I. BAILEY,
a/k/a Ray Hill,

Plaintiff-Appellant,

versus

M.A.L.D.E.F., INC. of Texas, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. 93-CV-768
- - - - -

March 21, 1995

Before GARWOOD, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Reginald I. Bailey filed a civil rights action pursuant to 42 U.S.C. § 1983 against the Mexican-American Lawyers Defense and Education Fund, Incorporated (M.A.L.D.E.F.). Bailey alleges a far reaching conspiracy involving members of the Nicholas & Barrera Law Firm and nearly every state and federal judge having jurisdiction in Texas. The district court dismissed the complaint as frivolous under 28 U.S.C. § 1915(d).

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.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 district court may dismiss an in forma pauperis complaint as frivolous pursuant to 28 U.S.C. § 1915(d) "if it lacks an arguable basis in law or fact." Eason v. Thaler, 14 F.3d 8, 9 (5th Cir. 1994). This court reviews § 1915(d) dismissals "utilizing the abuse of discretion standard." Graves v. Hampton, 1 F.3d 315, 317 (5th Cir. 1993). A court may dismiss a claim as factually frivolous only if the facts alleged are clearly baseless, a category encompassing allegations that are fanciful, fantastic, and delusional. Denton v. Hernandez, 112 S. Ct. 1728, 1733-34 (1992). A finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them. Id.

Bailey's baseless allegations of far-reaching conspiracy initiated by Mexican-Americans to discriminate against him have been repeatedly determined to be frivolous. It appears that every adverse ruling resulted in the allegation of another level to the conspiracy. Bailey's appeal is without arguable merit and thus, frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983).

This opinion does not alter the sanctions previously imposed on Bailey either by this court or the district court.

APPEAL DISMISSED. See 5th Cir. R. 42.2.