

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-30115
Conference Calendar

CURTIS BROUSSARD,

Plaintiff-Appellant,

versus

EDWIN EDWARDS, Governor,
ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 93-CV-1067-A
- - - - -

(May 17, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Curtis Broussard, a Louisiana state prisoner, filed a civil rights action against Governor Edwin Edwards, Louisiana Parole Board Chairman Raymond Bonvillian, state Judge Dennis Waldron, Orleans Parish District Attorney Harry Connick, and Broussard's defense counsel Wayne Fontenelle, asserting that La. Rev. Stat. Ann. § 15:571.5 (West 1993), a section of the state's statute governing diminution and commutation of sentences for good behavior, was unconstitutional.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

As noted by the magistrate judge in his report and recommendation, this lawsuit contains the same claims as were filed by Broussard and another inmate against a different group of defendants in another case where Broussard has also appealed the outcome. The magistrate judge warned Broussard that filing separate suits to re-litigate duplicitous claims would subject him to sanctions in the future.

Broussard does not address the substance of the district court's ruling that his § 1983 action is duplicitous. Prior to service, an IFP complaint ordinarily may be dismissed as frivolous only under 28 U.S.C. § 1915(d). Holloway v. Gunnell, 685 F.2d 150, 152 (5th Cir. 1982). A § 1983 action that is dismissed under § 1915(d) is reviewed for abuse of discretion. Ancar v. Sara Plasma, Inc., 964 F.2d 465, 468 (5th Cir. 1992).

A suit that alleges the same facts and circumstances and merely substitutes different defendants may be dismissed as frivolous under 28 U.S.C. § 1915(d). Bailey v. Johnson, 846 F.2d 1019, 1021 (5th Cir. 1988). Because Broussard's complaint is duplicitous, the district court did not abuse its discretion by dismissing the suit and its decision is AFFIRMED.

Broussard has also filed a motion to consolidate his appeal with five other appeals filed by different parties. Because it is not apparent that there is a factual or legal nexus between the causes and because there is no indication that joinder is practicable, this motion is DENIED. See Fed. R. App. P. 3(b).