

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-30183
Conference Calendar

FREDERICK LEWIS,

Plaintiff-Appellant,

versus

ALL AMERICAN BOND CO., ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. CA-93-1513-D-3

- - - - -
(November 16, 1994)

Before JONES, DUHÉ, and PARKER, Circuit Judges.

PER CURIAM:*

Frederick Lewis challenges the dismissal without prejudice of his complaint pursuant to 28 U.S.C. § 1915(d). A district court may dismiss a pauper's complaint as frivolous "where it lacks an arguable basis either in law or in fact." Denton v. Hernandez, ___ U.S. ___, 112 S. Ct. 1728, 1733-34, 118 L. Ed. 2d 340 (1992) (quoting Neitzke v. Williams, 490 U.S. 319, 325, 109 S. Ct. 1827, 104 L. Ed. 2d 338 (1989)). A district court's

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

§ 1915(d) dismissal is reviewed for an abuse of discretion. Id. at 1734.

"Section 1983 affords redress against a person who under color of state law deprives another person of any federal constitutional or statutory right." San Jacinto Sav. & Loan v. Kacal, 928 F.2d 697, 700 (5th Cir. 1991). Lewis has not shown that the district court abused its discretion because nothing indicates that Cyprian arguably acted under color of state law. "A person acts under color of state law only when exercising power possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law." Thibodeaux v. Bordelon, 740 F.2d 329, 333 (5th Cir. 1984) (internal quotation and citation omitted).

AFFIRMED.