

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-30648  
Conference Calendar

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MICHAEL H. JAMES,

Plaintiff-Appellant,

versus

PRESTON CHUTZ, Sheriff, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Middle District of Louisiana  
USDC No. CA-94-A-M-1  
- - - - -  
June 30, 1995

Before JONES, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Michael H. James filed a civil rights complaint, 42 U.S.C. § 1983, alleging civil rights violations and Louisiana state-law tort claims. The district court dismissed the federal-law claims with prejudice and the state-law claims without prejudice.

An individual cannot state a cognizable due process claim if a meaningful post-deprivation remedy is available to address a property loss. Hudson v. Palmer, 468 U.S. 517, 533 (1984). To the extent that he argues that he was deprived of his saddle,

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

James has an adequate post-deprivation remedy and, therefore, has not alleged a cognizable due process claim.

James argues, however, that he has alleged a cognizable due process claim because he was defamed by deputy sheriffs Brett Robillard and Buddy Joe Leonard. Damage to an individual's reputation as a result of defamatory statements made by a state actor, accompanied by an infringement of some other interest, is actionable under § 1983. See Paul v. Davis, 424 U.S. 693, 710 (1976); San Jacinto Sav. & Loan v. Kacal, 928 F.2d 697, 701 (5th Cir. 1991). This is referred to as the "stigma-plus" test. Kacal, 928 F.2d at 701. To establish the "stigma" prong a plaintiff must show that the stigma was caused by a false communication. Id. There is sufficient stigma only in "concrete, false factual representations or assertions, by a state actor, of wrongdoing on the part of the [plaintiff]." Id.

James alleged that Robillard and Leonard defamed him by threatening to arrest him for possession of stolen property. James does not dispute that the saddle was stolen property or that he was in possession of the property. Therefore, the deputies did not make a false statement, and James cannot satisfy the first prong of the "stigma-plus" test.

To the extent that James argues that the district court improperly denied his motion for leave to amend, his argument must fail. This court reviews the district court's denial of a motion to amend for an abuse of discretion. Ashe v. Corley, 992 F.2d 540, 542 (5th Cir. 1993). Leave should be freely given when justice so requires, but leave to amend is not automatic. Id.

James cannot allege a cognizable due process claim, and the district court did not abuse its discretion by denying the futile amendment. See Davis v. Louisiana State Univ., 876 F.2d 412, 413-14 (5th Cir. 1989).

If all federal-question claims that provided the court with original jurisdiction have been dismissed, the district court may dismiss the supplemental state-law claims. See Rhyne v. Henderson County, 973 F.2d 386, 395 (5th Cir. 1992). Therefore, because the district court properly dismissed James's federal constitutional claims, the district court properly dismissed without prejudice his state-law claims.

AFFIRMED.