

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-41158
Conference Calendar

WALTER L. MORRIS,

Plaintiff-Appellant,

versus

TROY FOX ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 93-CV-343
- - - - -
June 27, 1995

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

PER CURIAM:*

Texas Parole Board members are absolutely immune from liability under § 1983 for their conduct in individual parole decisions when exercising their decision-making powers. Johnson v. Kegans, 870 F.2d 992, 995-97 (5th Cir. 1989).

Morris relies on Jackson v. Cain, 864 F.2d 1235, 1249 (5th Cir. 1989)(citing Williams v. Rhoden, 629 F.2d 1099, 1103 (5th Cir. 1980)), to advance his argument that the defendants are not entitled to summary judgment on the basis of absolute immunity

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

because they denied his parole in retaliation against his exercise of a federally protected right. In Jackson, this court held that "parole commission members cannot escape possible section 1983 liability for decisions to deny parole made in retaliation against or so as to hinder the exercise of federally protected rights." However, Johnson distinguished this holding as a misstatement of the absolute-immunity precedent for Texas Parole Board members. See Johnson, 870 F.2d at 995 n.3. Further, Jackson is a discussion of the immunity of the Louisiana Department of Corrections, while Williams discussed the immunity of the Florida Probation and Parole Commission.

The defendants presented evidence sufficient to establish their activity as members of the Texas Parole Board at the time of the alleged offenses. Morris' complaint identifies the defendants as members of the Texas Parole Board.

The district court did not err in granting summary judgment on the basis of absolute immunity.

Morris' argument that the district court erred in granting summary judgment based on the defendants' incredible evidence is without merit.

AFFIRMED.