

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-50491
Conference Calendar

KEVIN DEWAYNE GRANT,

Plaintiff-Appellant,

versus

KENNETH THOMAS
ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. W-93-CV-329
- - - - -
(September 23, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:*

IT IS ORDERED that Kevin Dewayne Grant's motion for leave to appeal in forma pauperis (IFP) is DENIED. The appeal lacks arguable merit and is, therefore, frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5th Cir. R. 42.2.

An IFP complaint may be dismissed as frivolous pursuant to § 1915(d) if it has no arguable basis in law or in fact. Booker v. Koonce, 2 F.3d 114, 115 (5th Cir. 1993); see Denton v.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Hernandez, ___ U.S. ___, 112 S. Ct. 1728, 1733, 118 L. Ed. 2d 340 (1992). This court reviews a § 1915(d) dismissal under the abuse-of-discretion standard. Denton, 112 S. Ct. at 1734.

The district did not abuse its discretion. Liberally construing his brief, Grant contends that his right to due process was violated by officer Thomas's intentional filing of a false charge against him. However, there is no due process violation if a prisoner, who is falsely accused of charges, is given an adequate state procedural remedy to challenge the accusations. Collins v. King, 743 F.2d 248, 253-54 (5th Cir. 1984); see Freeman v. Rideout, 808 F.2d 949, 951 (2d Cir. 1986) (prison inmate has no constitutional right against being falsely accused of conduct which might result in deprivation of liberty interest), cert. denied, 485 U.S. 982 (1988). Furthermore, to the extent Grant challenges the disciplinary proceeding, itself, the record reflects that there was "some" evidence to support the disciplinary board's decision. See Stewart v. Thiqpen, 730 F.2d 1002, 1005-06 (5th Cir. 1984) (review of disciplinary board's decision limited to whether the decision is supported by "some facts" or "any evidence at all").

For the first time on appeal, Grant also asserts a claim for abuse of the legal process. This Court need not address issues not considered by the district court. "[I]ssues raised for the first time on appeal are not reviewable by this [C]ourt unless they involve purely legal questions and failure to consider them would result in manifest injustice." Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991). Since review of Grant's

contention would require this Court to make factual determinations, this issue is not considered.

As to any remaining issues alleged in his complaint and at the Spears hearing, Grant addresses neither the merits of the district court's judgment nor any errors in the legal analysis. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987). This Court "will not raise and discuss legal issues that [Grant] has failed to assert." Id.

APPEAL DISMISSED.