

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-50828  
Conference Calendar

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RONALD DUNBAR,

Plaintiff-Appellant,

versus

WILLIAM C. ZAPALAC, Ass't  
Attorney General for the State  
of Texas and RICKY SIMS

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. A-94-CA-554-JN  
- - - - -

March 21, 1995

Before GARWOOD, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:\*

Ronald Dunbar, proceeding pro se and in forma pauperis, filed this action under 42 U.S.C. § 1983 against William C. Zapalac, Assistant Attorney General for the State of Texas, and Ricky Sims, his former trial attorney in a state criminal case, alleging a conspiracy to deprive him of his constitutional rights under color of state law. The district court dismissed the action as frivolous and sanctioned Dunbar in the amount of \$100.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Dunbar's allegations of a conspiracy to violate his rights to due process and equal protection do not have an arguable basis in law or fact. See Denton v. Hernandez, 112 S. Ct. 1728, 1733-34 (1992). Any right Dunbar had to discovery from Sims in his prior habeas corpus action was an issue properly before the Western District of Texas in that action. The fact that Sims sought to avoid the discovery in that action through a motion for a protective order brought before the court with the assistance of the Attorney General's Office does not amount to a violation of Dunbar's constitutional rights actionable under § 1983. The district court did not abuse its discretion in dismissing Dunbar's complaint as frivolous. Id.

Dunbar argues that the district court abused its discretion in imposing a \$100 sanction upon him. Abuse of discretion is the standard of review for whether a Rule 11 violation occurred and for the nature of the sanction imposed. Thomas v. Capital Security Services, Inc., 836 F.2d 866, 872 (5th Cir. 1988) (en banc). Considering the unquestionably frivolous nature of Dunbar's allegations, the district court did not abuse its discretion in imposing a sanction of \$100, as recommended by the magistrate judge.

Dunbar is warned that if he continues to file frivolous appeals, he will be subject to sanctions in this court.

APPEAL DISMISSED AS FRIVOLOUS. See Fifth Cir. R. 42.2.