

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60216
Conference Calendar

BRYCE DALLAS,

Plaintiff-Appellant,

versus

EDNA EDWARDS STEVENS,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:93-CV-80
- - - - -

June 30, 1995

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

PER CURIAM:*

The district court dismissed Bryce Dallas's civil rights complaint, 42 U.S.C. § 1983, for failure to state a claim. Because Dallas received adequate notice that the district court would consider matters outside the pleadings, this court may review the decision as one for summary judgment. Washington v. Allstate Ins. Co., 901 F.2d 1281, 1284 (5th Cir. 1990).

Dallas argues that he was denied due process because Edna Edwards Stevens, clerk of court for Copiah County, failed to inform the Mississippi Supreme Court that he had filed a motion

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

to vacate his guilty plea. "Meaningful access to the courts is a fundamental constitutional right, grounded in the First Amendment right to petition and the Fifth and Fourteenth Amendment due process clauses." Johnson v. Atkins, 999 F.2d 99, 100 (5th Cir. 1993) (internal quotations and citation omitted). A plaintiff cannot establish a cognizable denial-of-access-to-the-courts claim unless his position was prejudiced by the alleged deprivation. Richardson v. McDonnell, 841 F.2d 120, 122 (5th Cir. 1988). Judge Stewart denied the motion to vacate his guilty plea and, therefore, Dallas cannot show any prejudice because the Mississippi Supreme Court denied the motion to expedite.

Dallas argues, however, that he was prejudiced because he was required to file additional motions in the Mississippi Supreme Court to have that court review the motion on proper grounds. Because ultimately Dallas's position was not prejudiced, these additional motions are insufficient to establish a constitutional violation.

Dallas also argues that Stevens's failure to process his motion properly violated Mississippi state law. A violation of state law without more is insufficient to establish a constitutional violation. Levitt v. University of Texas at El Paso, 759 F.2d 1224, 1230 (5th Cir.), cert. denied, 474 U.S. 1034 (1985). Because Dallas cannot establish an independent constitutional violation any state-law violations are insufficient to establish a cognizable § 1983 claim.

AFFIRMED.