

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-20446
Conference Calendar

ALFREDO URDIALES,

Plaintiff-Appellant,

versus

W.C. LAROWE,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA-H-93-3718

- - - - -
August 23, 1995

Before KING, JOLLY, and WIENER, Circuit Judges.

BY THE COURT:

Alfredo Urdiales has moved for leave to proceed in forma pauperis ("IFP") on appeal. Urdiales must show that he will present a nonfrivolous issue on appeal. See Carson v. Polley, 689 F.2d 562, 586 (5th Cir. 1982). To prevail on his denial-of-access-to-the-courts claim, Urdiales must show he was prejudiced by the alleged violation. Henthorn v. Swinson, 955 F.2d 351, 354 (5th Cir.), cert. denied, 504 U.S. 988 (1992). Urdiales cannot show prejudice because W.C. LaRowe has not prevented him from filing an action to correct his prison records. Urdiales knows the facts and can obtain the documents he needs through discovery.

Urdiales argues that the district court should have held an evidentiary hearing to enable him to provide additional factual allegations supporting his claim. See Spears v. McCotter, 766 F.2d 179 (5th Cir. 1985). There was no abuse of discretion in dismissing the complaint without holding a Spears hearing because the deficiencies in Urdiales's pleadings cannot be remedied through more specific pleading. See Eason v. Thaler, 14 F.3d 8, 9 (5th Cir. 1994). The motion for leave to proceed IFP on appeal is DENIED. Because the appeal is frivolous, it is DISMISSED. 5th Cir. R. 42.2.

APPEAL DISMISSED.