

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 11, 2026

Lyle W. Cayce
Clerk

No. 26-50106
Summary Calendar

VERNON WAYNE MOONEY,

Plaintiff—Appellant,

versus

SHUNTRE CLARK, *Parole Officer, Texas Board of Pardons and Parole;*
JOSEPH DIDIO, *Hearing Officer, Texas Board of Pardons and Paroles;*
RENEE HINOJOSA, *Director, Texas Board of Pardons and Paroles,*

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:25-CV-1669

Before KING, HIGGINSON, and DOUGLAS, *Circuit Judges.*

PER CURIAM:*

Vernon Wayne Mooney, Texas prisoner # 384377, appeals the dismissal of his in forma pauperis complaint as frivolous under 28 U.S.C. § 1915(e).

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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First, Mooney brings a motion for leave to file a corrected brief. That motion is GRANTED.

Next, the Court considers that corrected brief. According to Mooney, the district court abused its discretion by applying *Heck v. Humphrey*, 512 U.S. 477 (1994), to dismiss his 42 U.S.C. § 1983 claims when he was entitled to proceed under *Wilkinson v. Dotson*, 544 U.S. 74 (2005). We need not reach that question, as we may affirm the dismissal under § 1915(e) “on any basis supported by the record.” *Doe v. Charter Commc’ns, LLC*, 131 F.4th 323, 327, 331 (5th Cir. 2025) (internal quotation marks and citation omitted).

As a condition of his parole, Mooney could not, under “Rule 5,” “possess . . . any weapon or illegal weapon,” and was also required, under “Rule 9D,” to abide by the rules of the halfway house in which he was placed. The Violation Report alleged that Mooney violated these conditions by bringing a four-inch knife and a six-inch knife into this halfway house, thereby possessing an “illegal weapon.” At the parole violation hearing, Defendant Shuntre Clark, a parole officer, “amended the Rule 5 allegations by striking the word ‘illegal’ from each allegation on the charging instrument, as well as the Violation Report.” Defendant Joseph Didio, a hearing officer, sustained the Rule 9D violation and Rule 5 violation as to the six-inch knife, but not the four-inch knife, as it “was not six inches in length.”

Mooney claims that this amendment to the Rule 5 allegations violated his Due Process rights because it led to the revocation of his parole for the possession of a weapon “that was neither described nor prohibited by Rule 5,” and seeks a new parole violation hearing, as well as other declaratory and injunctive relief. But Mooney did not dispute that he possessed a six-inch knife. He further concedes in his Complaint that possession of such a knife in a halfway house (or other community corrections facility) would be illegal under Texas law. *See* TEX. PENAL CODE § 46.01(6) (defining “[l]ocation-

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restricted knife” as “a knife with a blade over five and one-half inches”); TEX. PENAL CODE § 46.03(a)(9) (prohibiting possession of such a knife at a “correctional facility”); TEX. PENAL CODE § 1.07(a)(14)(D) (defining “correctional facility” to include “a community corrections facility operated by a community supervision and corrections department”). There is thus no arguable basis in fact for Mooney’s allegation that Defendants Clark and Dido revoked his parole without proof that he unlawfully possessed an illegal knife. Accordingly, the district court did not abuse its discretion by dismissing the complaint as frivolous. *See Harper v. Showers*, 174 F.3d 716, 718 (5th Cir. 1999).

AFFIRMED.