



Bailey v. Tayloe Associates

1992 | Cited 0 times | Fourth Circuit | December 21, 1992

Opinion

Per Curiam:

Norman John Bailey, Jr., filed this 42 U.S.C. § 1983 (1988) action against the court reporting firm responsible for transcribing his state criminal trial. Bailey claimed he had a right to a free transcript to use in the preparation of a collateral attack on his conviction. The district court dismissed the action with prejudice as frivolous under 28 U.S.C. § 1915(d) (1988). We affirm the district court's decision.

An action based on an indisputably meritless legal theory or clearly baseless factual contentions may be dismissed as frivolous. *Neitzke v. Williams*, 490 U.S. 319, 327 (1989). In *Jones v. Superintendent, Va. State Farm*, 460 F.2d 150 (4th Cir. 1972), cert. denied, 410 U.S. 944 (1973), this Court held that the constitutional right to a transcript is dependent upon a showing of need to collaterally attack a conviction. In this case, the district court correctly noted that Bailey had shown no specific need for a transcript in his complaint nor had he filed a federal habeas action. Also, Bailey did not sue a state actor as required by 42 U.S.C. § 1983. *West v. Atkins*, 487 U.S. 42, 48 (1988).

Accordingly, we affirm the district court's decision. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process.

AFFIRMED

Disposition

AFFIRMED

