

Affirmed and Opinion filed March 8, 2001.

In The
Fourteenth Court of Appeals

NO. 14-99-00924-CV

CARL WILLIAMS, Appellant

v.

WAYNE SCOTT, Appellee

**On Appeal from the 278th District Court
Walker County, Texas
Trial Court Cause No. 20,527-C**

OPINION

Appellant, Carl Williams, in one point of error, complains that the trial court erred by dismissing his suit against appellee, Wayne Scott, Director of the Texas Department of Criminal Justice (“T.D.C.J.”). We affirm.

Williams, an inmate at the T.D.C.J., filed a *pro se* petition in district court, alleging the T.D.C.J. was violating state and federal laws and depriving him of his civil and

constitutional rights.¹ The trial court dismissed his claim on the ground that he failed to file an affidavit as required in litigation involving inmates. TEX. CIV. PRAC. & REM. CODE ANN. § 14.004 (Vernon Supp. 2000).

We review the dismissal of a suit by an inmate, brought under the statutory framework governing inmate litigation, under an abuse of discretion standard. *McCollum v. Mt. Ararat Baptist Church*, 980 S.W.2d 535, 537 (Tex. App.—Houston [14th Dist.] 1998, no pet. h.). To establish an abuse of discretion, a party must show that “the trial court acted without reference to any guiding rules and principles, or equivalently, [that] under all the circumstances of the particular case[,] the trial court’s action was arbitrary or unreasonable.” *Koslow’s v. Mackie*, 796 S.W.2d 700, 704 (Tex. 1990) (citing *Downer v. Aquamarine Operators, Inc.*, 701 S.W.2d 238, 241–42 (Tex. 1985)).

Under section 14.004 of the Civil Practice and Remedies Code, when an inmate files an affidavit or unsworn declaration of an inability to pay costs, he must also file a separate affidavit or declaration “identifying each suit, other than a suit under the Family Code, previously brought by the person and in which the person was not represented by an attorney, without regard to whether the person was an inmate at the time the suit was brought.” TEX. CIV. PRAC. & REM. CODE ANN. §14.004(a)(1) (Vernon Supp. 2000). In addition, the affidavit or declaration must describe each suit previously brought by listing the operative facts of the prior litigation; the case name and number and the court in which it was filed; the parties named in the suit; and the disposition of the suit. *Id.* at §14.004(a)(2) (Vernon Supp. 2000). This provision is designed to eliminate duplicative inmate lawsuits. *Bell v. Texas Dept. of Criminal Justice-Instit’l Div.*, 962 S.W.2d 156, 158 (Tex. App.—Houston [14th Dist.] 1998, pet. denied). A trial court may presume that a suit filed without the prior declaration is frivolous because it may be substantially similar to one filed

¹Appellant also filed petitions in the three federal courts of appeals.

earlier. *See, e.g., Bell*, 962 S.W.2d at 158 (holding that an inmate's failure to comply with section 14.004 entitles the court to assume that the current suit is substantially similar to an earlier one, and, therefore, is frivolous). The court is authorized to dismiss a suit upon finding the claim is frivolous. TEX. CIV. PRAC. & REM. CODE ANN. §14.003(a)(2) (Vernon Supp. 2000).

Here, Williams made no attempt to comply with section 14.004. Therefore, the trial court had no means to determine whether he had previously filed a similar suit in another jurisdiction. Accordingly, the trial court did not abuse its discretion in dismissing his claims. Williams's sole point of error is overruled.

The judgment of the trial court is affirmed.

/s/ Leslie Brock Yates
Justice

Judgment rendered and Opinion filed March 8, 2001.

Panel consists of Justices Yates, Wittig, and Frost.

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