

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-11379
Summary Calendar

RAY HIGHTOWER, JR.,

Plaintiff-Appellant,

versus

VICTOR RODRIQUEZ, Director,
Texas Board of Pardons and Paroles,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:99-CV-157-C

May 22, 2002

Before JOLLY, DAVIS and STEWART, Circuit Judges.

PER CURIAM:*

Ray Hightower, Jr. (Hightower), Texas prisoner #430415, appeals from the dismissal of his complaint invoking 42 U.S.C. § 1983 as frivolous. He seeks a declaratory judgment that he is eligible for mandatory supervision and an injunction prohibiting the Texas Board of Pardons and Paroles from denying mandatory supervision to prisoners eligible for such release.

When a state prisoner, such as Hightower, “is challenging the very fact or duration of his physical imprisonment, and the relief he seeks is a determination that he is entitled to immediate release or a speedier release from that imprisonment, his sole federal remedy is a writ of habeas

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

corpus.” Preiser v. Rodriguez, 411 U.S. 475, 500 (1973). Accordingly, the district court did not abuse its discretion in dismissing his complaint. Norton v. Dimazana, 122 F.3d 286, 291 (5th Cir. 1997).

Hightower’s appeal has no arguable basis in law or fact; therefore, it is DISMISSED as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.

APPEAL DISMISSED AS FRIVOLOUS.