

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-60384
Conference Calendar

DAVID C. BROOKER,

Plaintiff-Appellant,

versus

ANNETTE TOWNSEND, Sergeant, Disciplinary Chairperson;
WALTER BOOKER, Superintendent at Parchman;
JAMES ANDERSON, Commissioner; CHARLES THOMAS;
DORA ROSS; DAVID REED; OFFICER BOOKER,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 4:99-CV-89-S-B

June 15, 2000

Before JOLLY, DAVIS, and DUHÉ, Circuit Judges.

PER CURIAM:*

David C. Brooker, Mississippi inmate #78460, appeals the denial of his civil rights complaint pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim. Brooker's argument that the disciplinary hearing was unfair because the hearing officers relied only on what the charging officer stated and not on Brooker's evidence does not state a claim for which relief can be granted. See Reeves v. Pettcox, 19 F.3d 1060, 1062

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

(5th Cir. 1994). Brooker's claim that he was not given the opportunity to be heard lacks a factual predicate. Because Brooker does not make his district court argument that he was retaliated against for filing the instant suit, that issue is deemed waived. See Yohey v. Collins, 985 F.2d 222, 224 (5th Cir. 1993).

AFFIRMED.