

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 06-11811
Non-Argument Calendar

<p>FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT October 12, 2006 THOMAS K. KAHN CLERK</p>

D. C. Docket No. 06-00016-CV-TWT-1

JOSEPH JOEY WILSON, JR.,

Plaintiff-Appellant,

versus

GEORGIA STATE BOARD OF
PARDONS AND PAROLES,
BOARD MEMBERS,
W. C. DAVIS,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia

(October 12, 2006)

Before BLACK, BARKETT and HULL, Circuit Judges.

PER CURIAM:

Joseph Joey Wilson, Jr., a Georgia prisoner proceeding pro se, appeals the district court's ruling dismissing his lawsuit, which alleged violations of the Due Process and Ex Post Facto Clauses related to post-offense changes in Georgia's parole procedures, for failure to state a claim upon which relief might be granted. On appeal, Wilson argues that the Board violated and continues to violate his due process and ex post facto rights by holding parole hearings for him only every eight years, even though, at the time his crimes of conviction were committed, the law required that such hearings be held every year once the prisoner had served seven years' incarceration. Wilson relies heavily on Akins v. Snow, 922 F.2d 1558 (11th Cir. 1991).

Subsequently, however, the U.S. Supreme Court issued decisions holding that new parole procedures that decrease the frequency of parole reconsideration hearings did not necessarily violate prisoners' ex post facto rights. See California Dep't of Corr. v. Morales, 514 U.S. 499, 501-02, 115 S. Ct. 1597, 1599 (1995); see also Garner v. Jones, 529 U.S. 244, 256-57, 120 S. Ct. 1362, 1370-71 (2000) (addressing the Georgia rule at issue in the instant case). We have acknowledged that the Supreme Court has overruled Akins. Swan v. Ray, 293 F.3d 1252, 1253 (11th Cir. 2002).

Wilson has argued only that the rule change facially constitutes an ex post facto violation, an argument that is contrary to the applicable law. Accordingly, the district court did not err in dismissing his lawsuit.

AFFIRMED.