

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

January 11, 2010

No. 09-30768
Summary Calendar

Charles R. Fulbruge III
Clerk

KELVIN WELLS; KELDA PRICE WELLS,

Plaintiffs - Appellants

v.

UNITED STATES DEPARTMENT OF EDUCATION; SECRETARY OF
EDUCATION; UNITED STATES DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT; SECRETARY OF HUD,

Defendants - Appellees

Appeal from the United States District Court for the Middle District of
Louisiana
3:09-CV-456

Before DAVIS, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:*

The plaintiffs filed this suit *pro se* in district court seeking injunctive relief pursuant to the Freedom of Information Act ("FOIA"). The plaintiffs alleged that they requested documents from the defendants and that their request was ignored, denied, and/or tampered with. In addition to seeking injunctive relief under FOIA, the plaintiffs also asserted that their Fourteenth Amendment

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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rights of due process and equal protection were violated when the defendants allegedly failed to respond to the FOIA request. The plaintiffs asked the district court to impose punitive damages against the defendants.

In a report and recommendation, the Magistrate Judge recommended dismissal of the action under 28 U.S.C. § 1915(e). The Magistrate Judge found the plaintiffs did not reasonably describe the records sought in their FOIA request as required by 5 U.S.C. § 552(a)(3). Additionally, the Magistrate Judge concluded that FOIA only allows the plaintiffs the potential for injunctive relief; it does not provide for the monetary damages sought by the plaintiffs. Finally, the Magistrate Judge found that the plaintiffs failed to allege that they exhausted their administrative remedies prior to filing suit as is required for FOIA complaints. *See Hedley v. U.S.*, 594 F.2d 1043, 1044 (5th Cir. 1979). The district court adopted the Magistrate Judge's report and dismissed the suit without prejudice.

On appeal, the plaintiffs-appellants do not address the basis on which the district judge dismissed this suit. Plaintiffs-appellants' brief argues that they need the information they sought from the defendants to assert claims of discrimination. Their brief does not identify the particular records sought or allege that they have exhausted their administrative remedies. The plaintiffs-appellants also do not provide any authority allowing a claim for monetary damages.

Because the plaintiffs-appellants' brief does not address the basis for the district court's dismissal or state how the district court erred, we affirm the district court's dismissal without prejudice.

AFFIRMED.