

Affirmed and Memorandum Opinion filed January 20, 2011



In The

Fourteenth Court of Appeals

NO. 14-10-00317-CV

TIMOTHY DEWAYNE OFFORD, Appellant

V.

**SENIOR WARDEN PAUL MORALES, THOMAS HINKLE, KIMBERLY
NUNEZ, AND DARREN WALLACE, Appellees**

**On Appeal from the 81st District Court
Karnes County, Texas
Trial Court Cause No. 08-12-00191-CVK**

MEMORANDUM OPINION

Appellant, Timothy Dewayne Offord, appeals the dismissal of his suit against appellees, Senior Warden Paul Morales, Thomas Hinkle, Kimberly Nunez, and Darren Wallace, as frivolous pursuant to Chapter 14 of the Texas Civil Practice and Remedies Code.¹ We affirm.

Appellant, who is incarcerated in the Texas Department of Criminal Justice, Institutional Division (TDCJ), alleged that Thomas Hinkle, a TDCJ employee,

¹ See TEX. CIV. PRAC. & REM. CODE ANN. §§ 14.001–.014 (West 2002).

confiscated his wedding rings without giving appellant the opportunity to show ownership of the rings. After failing to recover possession of the rings through the prison grievance process, Offord sued appellees complaining that his rings were wrongfully confiscated. Appellees filed motions to dismiss appellant's suit for failure to comply with the procedural requirements of Chapter 14 and because appellant's claims have no arguable basis in law or fact. After a hearing on appellees' motions to dismiss, the trial court granted appellees' Chapter 14 motions and ordered appellant's claims dismissed as frivolous.

Chapter 14 governs suits brought by inmates who file an affidavit or unsworn declaration of inability to pay costs. *Francis v. TDCJ-CID*, 188 S.W.3d 799, 801 (Tex. App.—Fort Worth 2006, no pet.); *Hickman v. Adams*, 35 S.W.3d 120, 123 (Tex. App.—Houston [14th Dist.] 2000, no pet.). A trial court may dismiss an inmate's claim if it finds the claim to be frivolous or malicious. TEX. PRAC. & REM. CODE ANN. § 14.003(a)(2). A trial court has broad discretion to dismiss an inmate's suit as frivolous. *Nabalek v. Dist. Attorney of Harris Cnty.*, 290 S.W.3d 222, 228 (Tex. App.—Houston [14th Dist.] 2005, pet. denied).

A prison inmate who files suit in Texas state court pro se and seeks to proceed in forma pauperis must comply with the procedural requirements set forth in Chapter 14. *Brewer v. Simental*, 268 S.W.3d 763, 767 (Tex. App.—Waco 2008, no pet.). Failure to satisfy those procedural requirements will result in the dismissal of an inmate's suit. *Id.*

With respect to the Chapter 14 procedural requirements, appellees argued in their motion to dismiss that appellant failed to file (1) an affidavit of previous filings² (2) an affidavit stating the date his grievance was filed and the date he received the written

² See TEX. CIV. PRAC. & REM. CODE ANN. § 14.004(a)(1) (requiring inmate to file affidavit or unsworn declaration identifying each suit other than suit under Family Code, previously brought by person and in which person was not represented by attorney, without regard to whether person was inmate at time suit was brought).

decision³ and (3) a certified copy of his inmate's trust account statement, reflecting the balance of the account at the time the claim was filed and all activity in the account during the six months preceding the date on which the claim is filed.⁴ On appeal, however, appellant only challenges the ground that he did not file a certified copy of his inmate trust account statement. Appellant does not mention either the affidavit of previous filings or the affidavit stating the date his grievance was filed and the date he received the written decision or that he complied with requirement to file such affidavits.

A pro se litigant must comply with all applicable laws and rules of procedure. *Pena v. McDowell*, 201 S.W.3d 665, 667 (Tex. 2006) (per curiam); *Mansfield State Bank v. Cohn*, 573 S.W.2d 181, 184–85 (Tex. 1978). As a pro se litigant, appellant is required to properly present his case on appeal, just as he is required to properly present his case to the trial court. *See Valadez v. Avitia*, 238 S.W.3d 843, 845 (Tex. App.—El Paso 2007, no pet.). When a trial court's judgment rests upon more than one independent ground, the aggrieved party must assign error to each ground, or the judgment will be affirmed on the ground to which no complaint is made. *Williamson v. State Farm Lloyds*, 76 S.W.2d 64, 67 (Tex. App.—Houston [14th Dist.] 2002, no pet.).

Because appellant does not complain on appeal of the trial court's dismissal of his suit based on his failure to file those affidavits, he cannot establish reversible error with regard to the trial court's dismissal order. *See Amir-Sharif v. Mason*, 243 S.W.3d 854, 858 (Tex. App.—Dallas 2008, no pet.) (citing *Malooly Bros., Inc. v. Napier*, 461 S.W.2d

³ *See* TEX. CIV. PRAC. & REM. CODE ANN. § 14.005(a)(1) (requiring inmate who filed claim subject to grievance system to file affidavit or unsworn declaration stating date grievance was filed and date written decision was received by inmate).

⁴ *See* TEX. CIV. PRAC. & REM. CODE ANN. § 14.004(c) (requiring that affidavit or unsworn declaration of inability to pay costs be accompanied by certified copy of trust account statement required by section 14.006(f)); *id.* § 14.006(f) (requiring inmate to file certified copy of inmate's trust account statement with court, reflecting balance of account at time claim is filed and activity in account during six months preceding date on which claim is filed).

119, 121 (Tex. 1970)) (affirming Chapter 14 dismissal where appellant did not challenge one of trial court's stated grounds for dismissal).⁵

Accordingly, we affirm the judgment of the trial court.

/s/ Sharon McCally
Justice

Panel consists of Justices Anderson, Seymore, and McCally.

⁵ In light of our disposition, we need not address other arguments raised in appellant's brief.