

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

JOHN FRANCIS BRISCOE,

Plaintiff-Appellant.

v.

WILLIAM SMITH, Warden; PARRIS N.
GLENDENING, Governor;
KATHLEEN K. TOWNSEND, Lieutenant;

No. 95-7720

BISHOP L. ROBINSON, Secretary of
Public Safety; RICHARD LANHAM,
Parole Commissioner; PAUL DAVIS,
Deputy Commissioner; DAN D.
ZACCOGNINI, Commissioner; MICHAEL
BLOUNT, Commissioner,
Defendants-Appellees.

Appeal from the United States District Court
for the District of Maryland, at Baltimore.
Deborah K. Chasanow, District Judge.
(CA-95-2791-DKC)

Submitted: February 20, 1996

Decided: March 12, 1996

Before HAMILTON and MICHAEL, Circuit Judges, and
BUTZNER, Senior Circuit Judge.

Affirmed in part and vacated and remanded in part by unpublished
per curiam opinion.

COUNSEL

John Francis Briscoe, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

John Francis Briscoe, a Maryland inmate, claimed in this 42 U.S.C. § 1983 (1988) action that he was improperly denied parole in August 1995. He also alleged that his next parole eligibility hearing was scheduled for 1997, although he previously had received annual hearings. The district court dismissed the action pursuant to 28 U.S.C. § 1915(d) (1988). We affirm in part and vacate and remand in part.

Briscoe's claim concerning the timing of his parole eligibility reviews is sufficient to survive dismissal under § 1915(d). If there was a statutory or regulatory amendment which altered the definition of criminal conduct or increased the penalty by which a crime is punishable, that amendment should be analyzed for a possible ex post facto violation. See California Dep't of Corrections v. Morales, 63 U.S.L.W. 4327 (U.S. Apr. 25, 1995) (No. 93-1462). The record is devoid of any reference to any such amendment or regulation, rendering it impossible to conduct an analysis under Morales. We therefore vacate the district court's decision with regard to this claim and remand for an analysis of the claim under the factors set forth in Morales.

To the extent that Briscoe appeals the district court's remaining findings, we have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we affirm on the reasoning of the district court. Briscoe v. Smith, No. CA-95-2791-DKC (D. Md. Sept. 29, 1995). We dispense with oral argument because the facts

and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED IN PART; VACATED AND REMANDED IN PART