

October 21, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-41673
Conference Calendar

BARRY ALEXANDER,

Plaintiff-Appellant,

versus

JAMES M. CARLOW, Judge Bowie County; GREG ABBOTT, Attorney
General State of Texas,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 5:03-CV-186

Before JOLLY, JONES, and WIENER, Circuit Judges.

PER CURIAM:*

Barry Alexander appeals from the district court's dismissal with prejudice of his civil-rights lawsuit, filed pursuant to 42 U.S.C. § 1983, for failure to state a claim upon which relief may be granted. This court reviews such a dismissal de novo. See Cinel v. Connick, 15 F.3d 1338, 1341 (5th Cir. 1994).

Alexander argues that: (1) the district court judge should have recused himself; (2) the district court failed to recognize the denial of certain previous lawsuits involving Alexander and

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

his family members; and (3) the district court failed to provide Alexander with a jury trial regarding his claims. The record does not support Alexander's argument that the district court judge should have recused himself. See Liteky v. United States, 510 U.S. 540, 555 (1994). Alexander's argument regarding previous lawsuits fails to raise a cognizable issue for review. Moreover, Alexander was not deprived of his right to a jury trial. See, e.g., Odum v. Penn Mut. Life Ins. Co., 288 F.2d 744, 748 (5th Cir. 1961).

Alexander's appeal is without arguable merit and is frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5TH CIR. R. 42.2. We caution Alexander that the filing of frivolous appeals and motions will invite the imposition of a sanction.

APPEAL DISMISSED AS FRIVOLOUS; SANCTION WARNING ISSUED.