

June 24, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-41347

Conference Calendar

JERRY W. MURRAY,

Plaintiff-Appellant,

versus

BOBBY PORTER; STEVE GAMBLE; HOWARD BALDWIN;
JO ALENE KIRKEL; PAUL K. RILEY; ELIZABETH HERNANDEZ;
JOHN CORNYN, Attorney General, State of Texas,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 2:02-CV-176-TJW

Before DeMOSS, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Jerry W. Murray filed a 42 U.S.C. § 1983 civil rights complaint and an application for leave to proceed in forma pauperis ("IFP") in the district court. The district court entered an order denying Murray's IFP motion and Murray now appeals from that order. Subsequent to the district court's denial of Murray's IFP application, Murray paid the district

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court filing fees and costs. On appeal, he seeks to have the district court's IFP denial vacated, to be found indigent, and to have his filing fees and costs reimbursed to him.

Whether an appeal is moot is a jurisdictional matter because it implicates the Article III requirement that there be a live case or controversy. Dailey v. Vought Aircraft Co., 141 F.3d 224, 227 (5th Cir. 1998). By paying the filing fee in the district court, Murray rendered this appeal moot. Accordingly, the appeal is dismissed. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2. Murray also moves to have his appellate filing fees reimbursed. That motion is denied.

APPEAL DISMISSED; MOTION FOR REIMBURSEMENT OF APPELLATE FILING FEES DENIED.