

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

No.96-10831
Summary Calendar

JOHN THOMAS BAGLEY,

Plaintiff-Appellant,

versus

MARK TOLLE, Judge; DONALD ROSS, Judge;
ROBERT HUTTASH, State Prosecuting Attorney;
JOHN VANCE; DAN MORALES, Attorney General;
GEORGE W. BUSH; JANET RENO, Attorney
General of the United States; JAMES A. COLLINS,
Director, Texas Department of Criminal Justice,
Institutional Division; DONALD H. LANE; MICHAEL
J. MCCORMICK, Presiding Judge; LINDA THOMAS,
Chief Justice,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas

(3:96-CV-40-X)

May 30, 1997

Before POLITZ, Chief Judge, JONES and SMITH, Circuit Judges.

PER CURIAM:*

John Thomas Bagley, a Texas state prisoner, appeals the dismissal of his 42 U.S.C. § 1983 action under the provisions of 29 U.S.C. § 1915A. Finding that Bagley's allegations implicate the constitutionality of his conviction, and because it is apparent that he seeks an immediate release from imprisonment, we must conclude that his sole federal remedy is a writ of habeas corpus.¹

Bagley did not seek habeas relief in the district court; however, he has requested a limited writ of habeas corpus for the purpose of arguing his appeal before this court. There is no proper request for habeas relief before this court upon which a panel of this court can act. Therefore, the dismissal order appealed must be and is AFFIRMED. In view of that disposition of Bagley's appeal, his habeas-based motion is DENIED AS MOOT.

*Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

¹**Preiser v. Rodriguez**, 411 U.S. 475 (1973).