

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-40263
Summary Calendar

GEORGE ELKINS, JR.,

Plaintiff-Appellant,

versus

UNIDENTIFIED GABETH, Officer
at Beto I Unit; UNIDENTIFIED SPAIN,
Officer at Beto I Unit; CEAR SMITH, DR.,
at Beto I Unit; UNIDENTIFIED STEWART, DR.,
at Beto I Unit,

Defendants-Appellees.

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Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:95-CV-752
- - - - -

July 22, 1996

Before SMITH, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

George Elkins, Texas prisoner # 570768, appeals from the magistrate judge's order dismissing his 42 U.S.C. § 1983 action as frivolous under 28 U.S.C. § 1915(d). He argues that the magistrate judge abused her discretion in dismissing his § 1983 action as frivolous. We have reviewed the argument and the

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

record and find no abuse of discretion in the dismissal. See Denton v. Hernandez, 504 U.S. 25, 31-32 (1992).

Elkins' appeal is without factual or legal basis and is thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Accordingly, his appeal is DISMISSED AS FRIVOLOUS. 5th Cir. 42.2. Elkins' motions for production of documents and appointment of counsel on appeal are DENIED.

We caution Elkins that any additional appeals filed by him or on his behalf will invite the imposition of sanctions. To avoid sanctions, Elkins is cautioned further to review any pending appeals to ensure that they do not raise arguments that are frivolous because they have been previously decided by this court.

APPEAL DISMISSED; MOTIONS DENIED; SANCTION WARNING ISSUED.