

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-41000
Conference Calendar

JOHN WILLIAM DICKEY,

Plaintiff-Appellant,

versus

U.S. BUREAU OF PRISONS ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 5:96-CV-192
- - - - -

April 17, 1997

Before REAVLEY, DAVIS, and BARKSDALE, Circuit Judges.

PER CURIAM:*

John William Dickey appeals from the dismissal of his action under the Federal Tort Claims Act (FTCA) and the Americans With Disabilities Act (ADA) for failure to prosecute or comply with a court order. Dickey, a former federal prisoner, seeks leave to proceed *in forma pauperis* (IFP) on appeal.

Because Dickey has been released from prison, the Prison

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

Litigation Reform Act (PLRA) does not apply to his appeal. Because he proceeded IFP in the district court and that court did not decertify Dickey's IFP status, Dickey need not obtain leave of this court to proceed IFP. His motion for leave to proceed IFP is DENIED as unnecessary.

Dickey has not shown that the district court abused its discretion by dismissing his action for failure to prosecute or comply with a court order. *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988). Dickey's appeal lacks arguable merit and is frivolous. *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983).

APPEAL DISMISSED. 5TH CIR. R. 42.2.