

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-10234
Conference Calendar

BILLY RAY GILBERT,

Plaintiff-Appellant,

versus

GEORGE R. PIERSON ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:97-CV-407
- - - - -

August 18, 1998

Before KING, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:*

Billy Ray Gilbert, Texas prisoner #653239, filed a 42 U.S.C. § 1983 complaint against Warden George R. Pierson, Disciplinary Captain J. Chism, and Patron, who acted as counsel substitute at his disciplinary proceeding. Gilbert alleged that he was falsely accused and found guilty of verbally threatening Pierson, that the disciplinary proceeding violated his due process rights, and that Patron was ineffective. The district court dismissed the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

complaint as frivolous and for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (e)(2)(B)(ii). We have reviewed the record and perceive no error by the district court. Gilbert v. Pierson et al., No. 2:97-CV-407 (N.D. Tex. February 3, 1998).

The appeal is without arguable merit and thus frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. 5th Cir. R. 42.2.