

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 98-10793  
Conference Calendar

---

JESSIE R. TORRES,

Plaintiff-Appellant,

versus

FIRST NAME UNKNOWN HAYS, Captain;  
GARY L. JOHNSON, DIRECTOR,  
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,  
INSTITUTIONAL DIVISION

Defendants-Appellees.

-----  
Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 2:98-CV-121  
-----

February 9, 1999

Before BARKSDALE, and EMILIO M. GARZA, Circuit Judges.\*

PER CURIAM:\*\*

Texas state prisoner Jessie R. Torres, #702908, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint with prejudice under 28 U.S.C. § 1915(e) as frivolous and for failure to state a claim upon which relief may be granted. We

---

\*This matter is being decided by a quorum. 28 U.S.C. § 46(d).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

have reviewed the record and Torres's brief and conclude that

Torres has failed to identify any error in the dismissal. See Torres v. Hays, No. 2:98-CV-0121 (N.D. Tex. Jun. 25, 1998).

Torres's appeal is without arguable merit and therefore frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5TH CIR. R. 42.2. We caution Torres that any additional frivolous appeals filed by him or on his behalf will invite the imposition of sanctions. To avoid sanctions, Torres is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED; SANCTIONS WARNING ISSUED.