

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-20106
Conference Calendar

MARIO C. MARTINEZ,

Plaintiff-Appellant,

versus

J. DOUFOUR ET. AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-96-CV-1324

February 9, 1999

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

PER CURIAM:**

Texas state prisoner Mario C. Martinez, #339106, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint with prejudice under 42 U.S.C. § 1915(e)(2) as frivolous. Martinez's failure to identify any error in the district court's legal analysis or its application to his lawsuit "is the same as if he

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

had not appealed that judgment." Brinkmann v. Abner, 813 F.2d 744, 748 (5th Cir. 1987).

Martinez's appeal is without 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 Martinez that any additional frivolous appeals filed by him or on his behalf will invite the imposition of sanctions. To avoid sanctions, Martinez is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED; SANCTIONS WARNING ISSUED.