

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-50099  
Summary Calendar

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KENNETH LEE JOHNSON,

Plaintiff-Appellant,

versus

FRED C. TADLOCK; GARY BRITT; MARK SCOTT; WAYNE SCOTT, DIRECTOR,  
TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION;  
J. DOE; J. DOE, II; J. DOE, III; THOMAS JAMES MCKINNEY;  
KENNETH B. GREEN, JR., Warden; RICHARD C. TEDFORD;  
JOHNNY W. SMITH; DENNIS L. HERRON, Captain,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. W-95-CV-325  
- - - - -  
June 17, 1998

Before DUHÉ, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:<sup>1</sup>

Kenneth Lee Johnson, Texas prisoner # 515059, appeals from the district court's dismissal of his civil rights suit for failure to serve the defendants and for failure to prosecute. Johnson's motion to strike and replace his initial brief is GRANTED.

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<sup>1</sup> 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

Johnson argues that the district court should not have dismissed his complaint for failure to serve process, that the court should have appointed a "special process server" for him, and that the defendants should have been made to allow him to serve them. The record reveals that Johnson has not shown good cause for failing to serve the defendants within the time allowed. FED. R. CIV. P. 4(c), (m); *Lambert v. United States*, 44 F.3d 296, 299 (5th Cir. 1995). In addition, the dismissal of the suit was justified in the light of Johnson's contumacious conduct. See *Berry v. CIGNA/RSI-CIGNA*, 975 F.2d 1188, 1191 (5th Cir. 1992). This appeal lacks arguable merit and is, therefore, frivolous. *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). It is DISMISSED as such.

Because of his demonstrated willingness to file frivolous suits and appeals, Johnson is BARRED from filing any pleadings or documents of any kind, either in the district courts of this circuit or in this court, without advance written permission of a judge of the forum court. Any attempt by Johnson to file frivolous pleadings in the future will result in further sanctions.

MOTION TO STRIKE AND REPLACE THE BRIEF GRANTED; APPEAL DISMISSED; BAR TO FILINGS RAISED.