

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-11275
Summary Calendar

GREGORY C. NIEMANN,

Plaintiff-Appellant,

VERSUS

WALTER S. SMITH, JR., U.S. District Judge; JOHN PHINIZY,
Assistant U.S. Attorney; GEORGE MAYBEN, Department of Public
Safety Narcotics Investigator; HOWARD WESTMORELAND, Hamilton
County Sheriff's Department, Investigator; JEFFREY BRZOZOWSKI,
ATF agent; RONALD HUDSON MOODY, Attorney, STAN SCHWIEGER,
Attorney,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:99-CV-994-L

June 27, 2000

Before DAVIS, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:*

Gregory C. Niemann, federal prisoner # 264-68-080, appeals the dismissal of his suit pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). The district court did not err when it dismissed Niemann's claims against Judge Walter Smith and Assistant United States Attorney John Phinizy because they are absolutely immune from liability. Boyd v. Biggers, 31 F.3d 279, 284 (5th Cir. 1994); 28 U.S.C.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

§ 1915A. Pursuant to Heck v. Humphrey, 512 U.S. 477 (1994), Niemann's claims against the remaining defendants have not accrued. Stephenson v. Reno, 28 F.3d 26, 27-28 (5th Cir. 1994) Accordingly, the district court did not abuse its discretion when it dismissed those claims as frivolous. § 1915A.

The judgment of the district court is AFFIRMED.