

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-20726
Conference Calendar

INNOCENT OGUAGHA,

Plaintiff-Appellant,

versus

RICHARD CRAVENER, Immigration and
Naturalization Service, District
Director,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-98-CV-3944
- - - - -

April 11, 2001

Before JOLLY, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:*

Innocent Oguagha appeals from the district court's denial of his postjudgment motion to amend his 42 U.S.C. § 1983 complaint by adding a defendant. On March 1, 2000, this court dismissed as frivolous Oguagha's appeal from the district court's dismissal of his 42 U.S.C. § 1983 complaint for failure to exhaust his administrative remedies. Oguagha v. Cravener, No. 99-20687 (5th Cir. Mar. 1, 2000). Because of this court's dismissal of Oguagha's complaint as frivolous, there was no pending complaint

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

to which Oguagha could add a defendant at the time of the district court's denial of the motion. Accordingly, the district court did not abuse its discretion by denying Oguagha's request. See *Bridle v. Scott*, 63 F.3d 364, 379 (5th Cir. 1995).

Oguagha's appeal from the district court's ruling is without merit and is thus frivolous. His appeal is DISMISSED on this basis. See *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2. Oguagha's pending motions in this court are DENIED.

While Oguagha's appeal was pending in this court, the appellee, who was not served below, filed a motion to make an appearance in the case along with a motion to dismiss Oguagha's appeal as frivolous. These motions are DENIED as moot.