

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-30065
Summary Calendar

MARIO McKINLEY,

Plaintiff-Appellant,

versus

TERREBONNE PARISH SHERIFF
DEPUTIES, ET AL.,

Defendants,

BRYAN BOUGARD, Deputy;
PHILIP PITRE, Deputy;
DR. SPENCE; JERRY LARPENTER,
Sheriff; ROBERT BERGERON,

Defendants-Appellees.

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Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 99-CV-2735-F
- - - - -

July 11, 2001

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

PER CURIAM:*

Mario McKinley has filed an application for leave to proceed in forma pauperis (IFP) on appeal, following the district court's dismissal of some, but not all, of the defendants in his 42 U.S.C. § 1983 complaint. Because McKinley has since paid the filing fee, his IFP motion is DENIED AS MOOT.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

McKinley does not address whether the district court's order was final and thus appealable. This court must examine the basis of its jurisdiction on its own motion if necessary. See Mosley v. Cozby, 813 F.2d 659, 660 (5th Cir. 1987).

In a case involving multiple defendants, a district court's order is "final" only if: (1) it adjudicates all the claims of all the parties, or (2) the court expressly determines that there is "no just reason for delay" and directs entry of judgment under Fed. R. Civ. P. 54(b). Riley v. Wooten, 999 F.2d 802, 804 (5th Cir. 1993)(citation omitted).

The order appealed from was not certified under Rule 54(b) and does not fall into the specific class of orders listed in 28 U.S.C. § 1292(a). The order is therefore not final, and this court is without jurisdiction to consider it. Accordingly, the appeal is DISMISSED FOR LACK OF JURISDICTION.

McKinley's pro se motion for appointment of new counsel and court-appointed counsel's motion for leave to withdraw as counsel are DENIED WITHOUT PREJUDICE to being reasserted before the district court.

IFP MOTION DENIED AS MOOT; MOTION FOR APPOINTMENT OF NEW COUNSEL AND MOTION FOR LEAVE TO WITHDRAW AS COUNSEL DENIED WITHOUT PREJUDICE; APPEAL DISMISSED.