

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-30372
Conference Calendar

STEPHON GRAVES,

Plaintiff-Appellant,

versus

ADRIS BANDY ET AL.,

Defendants,

ADRIS BANDY; KELLY ANDERSON;
FONTENOT, Lieutenant, B Team Security;
CONNER, Lieutenant; MARK DAUZAT,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
USDC Nos. 95-CV-217 & 95-CV-1272

December 11, 2001

Before HIGGINBOTHAM, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Stephon Graves, Louisiana prisoner number 113275, appeals the dismissal of his 42 U.S.C. § 1983 suit following the grant of the defendants' motion for a judgment as a matter of law in the second trial that was held in this matter. Graves first argues that the magistrate judge erred in granting the defendants' motion for a mistrial during the first trial. Graves has not

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

shown that the magistrate judge abused his discretion in granting the defendants' motion. See United States v. Coveney, 995 F.2d 578, 584 (5th Cir. 1993).

Graves next argues that the magistrate judge erred in declining to appoint counsel to represent him at the second trial. He has not shown that his was the exceptional civil trial in which the appointment of counsel is warranted. Ulmer v. Chancellor, 691 F.2d 209, 212 (5th Cir. 1982). With regards to his motion for appointment of counsel, Graves has likewise not shown the exceptional circumstances that would warrant his receiving an appointed attorney to assist him in his appeal. Consequently, the judgment of the lower court is AFFIRMED, and Graves' motion for appointment of counsel is DENIED.