

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-30584
Conference Calendar

ALVIN WASHINGTON,

Plaintiff-Appellant,

versus

PUBLIC SERVICE COMMISSION;
RELIANT ENERGY ENTEX,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 01-CV-486
- - - - -

October 26, 2001

Before WIENER, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Alvin Washington appeals from the district court's grant of summary judgment dismissing his 42 U.S.C. § 1983 complaint. He complains that counsel for Reliant Energy Entex ("Reliant") has used unspecified "abusive tactics" and filed a "frivolous defense" and fraudulent, nonconforming motions.

Reliant's motion to strike Washington's brief and Washington's motion to strike Reliant's brief are DENIED.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 the extent that Washington argues that Reliant's counsel should be sanctioned under Fed. R. Civ. P. 11, that argument is baseless. The Federal Rules of Civil Procedure apply to proceedings in the district court rather than the appellate court. See Fed. R. Civ. P. 1.

To the extent that Washington argues that Reliant's summary judgment motion is nonconforming, he does not explain on what basis he challenges the motion. Reliant's supporting affidavit is facially valid under Fed. R. Civ. P. 56(e). Washington has offered nothing more than his own conclusional allegations that the sharp increase in the amount of his natural gas bills was the result of fraud and embezzlement, which is inadequate to sustain his burden under Fed. R. Civ. P. 56(e).

This appeal is without arguable merit and is therefore frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. 5TH CIR. R. 42.2. We caution Washington that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Washington is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED. MOTIONS DENIED. SANCTION WARNING ISSUED.