

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-30787  
Conference Calendar

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FRANK D. STEWART,

Plaintiff-Appellant,

versus

O.K. ANDREWS; JOHN ONELLION; LUNDY & DAVIS L.L.P.;  
RICHARD P. IEYOUB; RICHARD L. STALDER; JOHNNY CREED,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 02-CV-558  
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February 19, 2003

Before WIENER, EMILIO M. GARZA, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Frank D. Stewart appeals the denial of his petition for writ of mandamus. In that petition, Stewart sought free photocopies of documents he allegedly needed in order to file a 28 U.S.C. § 2254 petition.

28 U.S.C. § 1651(a) is not an independent grant of jurisdiction; therefore, the district court did not err in its determination that it lacked subject matter jurisdiction over the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

mandamus petition. See Texas v. Real Parties In Interest, 259 F.3d 387, 392 (5th Cir. 2001), cert. denied, 534 U.S. 1115 (2002). Insofar as Stewart's mandamus petition could be construed as a raising a 42 U.S.C. § 1983 access-to-the-courts claim, the issue whether Stewart, as an indigent prisoner, is constitutionally entitled to free copies is moot because Stewart is no longer incarcerated. See Rocky v. King, 900 F.2d 864, 867 (5th Cir. 1990) (an action is moot where the controversy is no longer live).

Stewart's appeal is without arguable merit and is therefore dismissed as frivolous. See 5TH CIR. R. 42.2; Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983).

APPEAL DISMISSED.