

April 22, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-40371
Conference Calendar

EUGENE SHANNON ABNER,

Plaintiff,

versus

ROBERT HAZELWOOD, Etc.; ET AL.,

Defendants,

ROBERT HAZELWOOD, Sergeant, Beto I,

Defendant-Appellee,

versus

WILLIAM PENA,

Movant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:01-CV-560

Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

William Pena appeals the district court's interlocutory order denying his motion to intervene in the 42 U.S.C. § 1983

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

suit filed by fellow inmate Eugene Shannon Abner. In his motion, Pena sought leave to act as counsel on behalf of Abner pursuant to a guardianship agreement and a power of attorney executed by Abner.

The district court construed Pena's motion as a motion to intervene; however, Pena was not seeking to become a party to the suit. See FED. R. CIV. P. 24. Instead, Pena's motion is more closely analogous to a motion to enroll as counsel. Pena has not demonstrated that an order denying such a motion is an appealable interlocutory order. See Briargrove Shopping Ctr. Joint Venture v. Pilgrim Enter., Inc., 170 F.3d 536, 538 (5th Cir. 1999). Accordingly, this court lacks jurisdiction to entertain his appeal.

APPEAL DISMISSED FOR LACK OF JURISDICTION.