

August 5, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-41083
USDC No. 6:01-CV-476

FREDDY WAYNE HURLEY, ET AL.,

Plaintiffs,

FREDDY WAYNE HURLEY,

Plaintiff-Appellant,

versus

GARY JOHNSON; JANIE COCKRELL; A.M. STRINGFELLOW;
SALVADOR BUENTELLO; LESLIE WOODS; SUSAN PERRYMAN,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas

Before DAVIS, DUHÉ, and CLEMENT, Circuit Judges.

PER CURIAM:*

Freddy Wayne Hurley, Texas prisoner # 453088, filed the instant 42 U.S.C. § 1983 complaint against employees of the Texas Department of Criminal Justice-Institutional Division challenging the conditions of confinement for prisoners in protective custody. The district court dismissed his complaint as frivolous and for failure to state a claim on April 24, 2002. Hurley did

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

not file his notice of appeal until at the earliest June 19, 2002. Hurley has not shown that the district court clearly erred in concluding that documents mailed by Hurley to the district court in the proper time period were not in fact his notice of appeal. See Billiot v. Dolphin Servs., Inc., 225 F.3d 515, 517 (5th Cir. 2000). The notice of appeal was therefore untimely, and, as a result, this court lacks jurisdiction over this appeal. FED. R. APP. P. 4(a)(1); Dison v. Whitley, 20 F.3d 185, 186 (5th Cir. 1994).

APPEAL DISMISSED.