

October 22, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-10433
Conference Calendar

MICHAEL G. SCOTT,

Plaintiff-Appellant,

versus

CINDY GROOMER; CAROLINE WOODBURN;
TROY C. BENNETT, JR.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:02-CV-128

Before KING, Chief Judge, and JOLLY and STEWART, Circuit Judges.

PER CURIAM:*

Michael G. Scott, Texas prisoner # 762996, appeals from the dismissal without prejudice of his 42 U.S.C. § 1983 complaint for failure to state a claim. Scott alleged in his complaint that the defendants, who are state clerks of court, denied him access to the court by conspiring to withhold his state habeas corpus application. On appeal, Scott persists in this argument.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Scott has not addressed the district court's conclusions that his claims against Groomer were in her supervisory capacity and failed to allege a causal connection between her actions and the denial of a constitutional right or that Scott failed to show how he was harmed by the alleged failure to process his pleading properly. Accordingly, Scott has abandoned those issues on appeal. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987). Moreover, a review of Scott's complaint shows that his bald allegations of a conspiracy are insufficient to survive dismissal for failure to state a claim. See Lynch v. Cannatella, 810 F.2d 1363, 1369-70 (5th Cir. 1987); see also Kane Enters. v. MacGregor (USA) Inc., 322 F.3d 371, 374 (5th Cir. 2003).

Scott has filed motions for the appointment of counsel, for production of documents, and for transfer of custody. Those motions are DENIED.

Scott's appeal is without merit and is frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Accordingly, his appeal is DISMISSED as frivolous. See 5TH CIR. R. 42.2. The dismissal of the appeal counts as a strike against Scott for purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 388 (5th Cir. 1996). Scott is CAUTIONED that if he accumulates three strikes, he may not proceed in forma pauperis in any civil action or appeal while he is incarcerated or

detained in any facility unless he is in imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

APPEAL DISMISSED; SANCTIONS WARNING ISSUED; MOTIONS DENIED.