

April 20, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-20104
Conference Calendar

ARTHUR E. JOHNSON,

Plaintiff-Appellant,

versus

TEXAS DEPARTMENT OF PUBLIC SAFETY;
BILLY MANNING,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-00-CV-1334

Before JOLLY, JONES, and SMITH, Circuit Judges.

PER CURIAM:*

Arthur E. Johnson filed the instant appeal following the district court's entry of its June 20, 2002, order dismissing his pro se 42 U.S.C. § 1983 complaint for failure to state a claim upon which relief may be granted; its July 9, 2002, order denying his FED. R. CIV. P. 59(e) motion; its July 30, 2002, order denying his motion to set aside the denial of his Rule 59(e) motion; and its November 29, 2002, order denying his motion in

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

opposition to the July 30, 2002, order and imposing sanctions against him for filing frivolous motions.

Johnson's notice of appeal is timely only as to the district court's November 29, 2002, order denying his motion in opposition to the July 30, 2002, order and imposing sanctions against him. See FED. R. APP. P. 4(a)(1)(A); Nelson v. Foti, 707 F.2d 170, 171 (5th Cir. 1983) (holding that a timely notice of appeal is a mandatory precondition to the exercise of appellate jurisdiction). Johnson does not allege any error in the district court's November 29, 2002, order. He has therefore waived the only issue this court has jurisdiction to review on appeal. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993).

This appeal is without arguable merit and is thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2. Accordingly, the appeal is DISMISSED.