

October 22, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-40299
Conference Calendar

JERRY DON KING,

Plaintiff-Appellant,

versus

TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL
DIVISION; GARY L. JOHNSON; JERRY GROOMS, Chaplain;
ALEX TAYLOR, Assistant Chaplain,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 9:99-CV-122

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

PER CURIAM:*

Jerry Don King, Texas prisoner no. 596933, moves this court for the provision of transcripts at government expense and for a restraining order pending appeal. King's notice of appeal is effective only as to the denial of post-trial motions filed under FED. R. CIV. P. 60(b). King has shown no particularized need for transcripts at government expense because no reference to the transcripts is needed to determine that King does not advance any

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

argument relative to the denial of those motions. See Harvey v. Andrist, 754 F.2d 569, 571 (5th Cir. 1985). The motion for transcripts is DENIED.

King's motion for a restraining order pending appeal is also DENIED. FED. R. APP. P. 8.

King has not timely appealed the dismissal of his underlying 42 U.S.C. § 1983 action, and he advances no argument relative to the denial of his post-trial motions. King's appeal is without arguable merit and is therefore frivolous. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5TH CIR. R. 42.2.

ALL MOTIONS DENIED; APPEAL DISMISSED.