

August 23, 2005

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III  
Clerk

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No. 04-61060  
Summary Calendar

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WILLIE HAMPTON,

Plaintiff-Appellant,

versus

RAYMOND BARKER; FAYE BARKER,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Mississippi  
USDC No. 2:04-CV-160  
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Before SMITH, GARZA, and PRADO, Circuit Judges.

PER CURIAM:\*

Willie Hampton has appealed the district court's judgment dismissing his civil action for failure to state a claim.

Hampton contends that the district court should have recused itself. No abuse of discretion has been shown. See Andrade v. Chojnacki, 338 F.3d 448, 454-55 (5th Cir. 2003), cert. denied, 541 U.S. 935, and cert. denied, 124 S. Ct. 1655 (2004).

Hampton contends that the district court erred in dismissing his complaint for failure to state a claim without giving him an

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

opportunity to file an amended complaint. The district court provided such an opportunity by ordering Hampton to show cause why the complaint should not be dismissed.

Long after entry of the judgment, Hampton filed a document in the district court complaining that he mailed documents applying for a default judgment against the defendants to the clerk but that the clerk had failed to file the documents. Hampton contends that the district court failed to file and docket these documents and that the district court erred in failing to enter a default judgment. Although this issue is not properly before the court, we note that any error on the part of the district court in failing to file the documents was harmless. See FED. R. CIV. P. 61.

The appeal is DISMISSED AS FRIVOLOUS. See FED. R. APP. P. 34(a)(2)(A). Hampton is WARNED that the filing of frivolous motions and appeals will result in the imposition of a sanction. Hampton should review any pending motions and appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED; SANCTION WARNING ISSUED.