

March 13, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 06-11009  
Summary Calendar

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BUI PHU XUAN

Plaintiff - Appellant

v.

JUDGE JOE DRAGO; HONORABLE TIM CURRY, Tarrant County District  
Attorney

Defendants - Appellees

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:06-CV-552  
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Before KING, HIGGINBOTHAM, and GARZA, Circuit Judges.

PER CURIAM:\*

Bui Phan Xuan filed the instant 42 U.S.C. § 1983 suit to seek redress for damages caused when he was ordered to undergo an HIV test and was falsely informed that he was HIV positive. The district court determined that the suit was frivolous and dismissed it. Xuan appeals the dismissal of his suit. He argues that his suit is not barred by res judicata and that his claims are valid.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Xuan's claims are legally and factually frivolous. See Siglar v. Hightower, 112 F.3d 191, 193 (5th Cir. 1997); Denton v. Hernandez, 504 U.S. 25, 32-33 (1992). Consequently, the judgment of the district court is AFFIRMED. See Harper v. Showers, 174 F.3d 716, 719 (5th Cir. 1999).