

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

November 15, 2007

No. 06-41657
Summary Calendar

Charles R. Fulbruge III
Clerk

CARLOS AVILES ARMENTA

Plaintiff-Appellant

v.

JOHN PRYOR, Correctional Officer; LIEUTENANT JEFFREY LANN;
JOHNSON, Correctional Officer

Defendants-Appellees

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 5:06-CV-76

Before KING, DAVIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Carlos Aviles Armenta, Texas prisoner # 743688, argues that the district court abused its discretion by dismissing his 42 U.S.C. § 1983 complaint alleging that the defendant prison officers filed false disciplinary charges against him in retaliation for his filing lawsuits and prison grievances.

Armenta's allegations arguably stated claims of retaliation which are not subject to dismissal under Heck v. Humphrey, 512 U.S. 477 (1994). See Woods

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

v. Smith, 60 F.3d 1161, 1164 (5th Cir. 1995). The district court abused its discretion in dismissing the retaliation claims at this stage of the proceeding. Therefore, the judgment is VACATED and the case is REMANDED to the district court for further proceedings. We express no view on the merits.