

FILED

August 21, 2007

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 06-51087
Conference Calendar

LARRY KEELE

Plaintiff-Appellant

v.

FRANK GUAJARDO, III

Defendant-Appellee

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:01-CV-176

Before HIGGINBOTHAM, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

Larry Keele, Texas prisoner # 1077576, appeals pro se from the dismissal of his civil rights complaint following a judgment in a bench trial in favor of the defendant. Keele argues that his appointed trial counsel rendered ineffective assistance by failing to subpoena witnesses for trial. The constitutional right to the effective assistance of counsel does not apply in a civil context. See *F.T.C. v. Assail, Inc.*, 410 F.3d 256, 267 (5th Cir. 2005).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Keele's requests for a new trial and for the appointment of appellate counsel are denied. This appeal is without arguable merit and is dismissed as frivolous. See *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2. In *Keele v. Chance*, No. 4:03-CV-4191 (S.D. Tex. Nov. 25, 2003), the district court imposed the 28 U.S.C. § 1915(g) bar against Keele. He is therefore barred from bringing in forma pauperis civil actions or appeals unless he is in imminent danger of serious physical injury. § 1915(g); see *Adepegba v. Hammons*, 103 F.3d 383, 385-88 (5th Cir. 1996). We caution Keele that further frivolous filings may result in additional sanctions.

APPEAL DISMISSED; SANCTION WARNING ISSUED.