

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-40912

United States Court of Appeals
Fifth Circuit

FILED

January 29, 2018

Lyle W. Cayce
Clerk

CARLOS KIDD,

Plaintiff-Appellant

v.

BRAD LIVINGSTON,

Defendant-Appellee

Appeals from the United States District Court
for the Eastern District of Texas
USDC No. 9:15-CV-126

Before HIGGINBOTHAM, JONES, and COSTA, Circuit Judges.

PER CURIAM:*

Carlos Kidd, Texas prisoner # 1079464, filed a 42 U.S.C. § 1983 complaint, alleging that Brad Livingston, the former director of the Texas Department of Criminal Justice, failed to protect him. Kidd moves for leave to proceed in forma pauperis (IFP) to appeal the magistrate judge's report and recommendation.

This court must examine the basis of its jurisdiction, sua sponte, if necessary. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). We lack

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 17-40912

jurisdiction to address this appeal. *See Donaldson v. Ducote*, 373 F.3d 622, 624 (5th Cir. 2004); *see also Colburn v. Bunge Towing, Inc.*, 883 F.2d 372, 379 (5th Cir. 1989). Accordingly, we dismiss the appeal and deny Kidd's IFP motion as moot.

APPEAL DISMISSED; MOTION DENIED AS MOOT.