

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

July 28, 2022

Lyle W. Cayce
Clerk

No. 21-50507
Summary Calendar

BRAVERN RAY WINSTON,

Plaintiff—Appellant,

versus

Hill County District Attorney MARK PRATT; BOBBY LUMPKIN,
Director, TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION; BOARD OF PARDONS
AND PAROLES,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:20-CV-367

Before SOUTHWICK, GRAVES, and OLDHAM, *Circuit Judges*.

PER CURIAM:*

Bravern Winston, Texas inmate # 1928284, appeals the district court's denial of his application for a certificate of appealability ("COA").

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 21-50507

The district court had dismissed Winston’s 42 U.S.C. § 1983 suit as frivolous and his motions for reconsideration were denied. We point out that the requirement for a COA set out in 28 U.S.C. § 2253(a) applies in “a habeas corpus proceeding or a proceeding under 28 U.S.C. § 2255 before a district judge”; there is no need to seek a certificate of appealability in a civil case such as this one.

We treat Winston’s application for a COA as a notice of appeal. He gains little from our recasting, though, because after considering his brief, we dismiss the appeal as frivolous. *See* 5TH CIR. R. 42.2; *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (holding an appeal without arguable merit to be frivolous).