

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

June 6, 2023

Lyle W. Cayce
Clerk

No. 22-20511
Summary Calendar

CLARENCE L. CERF,

Plaintiff—Appellant,

versus

M. PARINELLO; ED GONZALEZ,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:22-CV-1384

Before STEWART, DUNCAN, and WILSON, *Circuit Judges.*

PER CURIAM:*

Clarence L. Cerf, Texas prisoner # 01145508, appeals the dismissal of his civil rights complaint as frivolous and for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) and 28 U.S.C. § 1915A(b) and the denial of his postjudgment motion. He provides no meaningful argument regarding the district court's substantive reasons for dismissing his

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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complaint, and has forfeited review of this decision. *See Brinkmann v. Dallas Cnty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). Rather, Cerf's briefing focuses only on the alleged improper removal of the case to federal court and refusal of the district court to assist in serving a party, the latter of which was raised in a motion requesting assistance with service and in his postjudgment motion.

With respect to the first argument, Cerf contends that the case was improperly removed because defendant M. Parinello, an unserved party, merely consented to removal without providing information required by Federal Rule of Civil Procedure 11(a). Cerf did not raise this argument in the district court, and we do not consider it on appeal. *See Leverette v. Louisville Ladder Co.*, 183 F.3d 339, 342 (5th Cir. 1999).

As to Cerf's second argument, the issue of service on Parinello was rendered moot by the district court's conclusion that the claims against this defendant should be dismissed as frivolous and for failure to state a claim pursuant to § 1915A(b). As noted above, Cerf does not address the merits of the district court's dismissal of his substantive claims against Parinello, a decision which informed the district court's failure to order service. He has forfeited review of this issue as well. *See Brinkmann*, 813 F.2d at 748.

Finally, Cerf's motion for appointment of counsel is denied because the appeal does not present any exceptional circumstances. *See Ulmer v. Chancellor*, 691 F.2d 209, 212-13 (5th Cir. 1982). His motion for oral argument is denied as unnecessary, given that the appeal is without merit.

AFFIRMED; MOTIONS DENIED.