

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-4922
Conference Calendar

DANIEL JOSEPH LUKEN,

Plaintiff-Appellant,

versus

JAMES COLLINS, Director, Texas
Department of Criminal Justice
Institutional Division, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:91-CV-32

- - - - -
August 17, 1993

Before JOLLY, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:*

Texas state prisoner Daniel Joseph Luken, proceeding in forma pauperis (IFP) and pro se, contends that the district court erred in denying him a jury trial. His contention is unavailing.

A district court's denial of a motion for a jury trial brought pursuant to Fed. R. Civ. P 39(b) is reviewed under the abuse-of-discretion standard. Lewis v. Thigpen, 767 F.2d 252, 257 (5th Cir. 1985). Pursuant to the Local Rules of Court for

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

the Eastern District of Texas, a jury demand must be made on a separate paper and may not be endorsed upon a complaint. E.D. Tex. R. 4(c). Pro se litigants must adhere to the Local Rules of Court. See Martin v. Harrison County Jail, 975 F.2d 192, 193 (5th Cir. 1992). The district court did not abuse its discretion in denying Luken a jury trial.

Luken also contends that the district court erred by denying him appointment of counsel. This Court reviews a district court's denial of a motion for appointment of counsel in a § 1983 case for abuse of discretion. Ulmer v. Chancellor, 691 F.2d 209, 212-13 (5th Cir. 1982). There is no automatic right to counsel in a § 1983 action, and a district court is not required to appoint counsel for an indigent in a § 1983 case unless there are exceptional circumstances. Branch v. Cole, 686 F.2d 264, 266 (5th Cir. 1982). Luken has failed to set forth what exceptional circumstances required the appointment of counsel in this case. Additionally, the record indicates that he submitted numerous motions, presented evidence, extensively cross-examined defense witnesses, and delivered cogent opening and closing statements during trial. The district court did not abuse its discretion in denying his motions for appointment of counsel.

AFFIRMED.