

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-1761  
Conference Calendar

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SIDNEY GOODMAN,

Plaintiff-Appellant,

versus

MARVIN T. RUNYON, in his official  
capacity as Postmaster General United  
States Postal Service, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. CA-C-89-1411-D  
- - - - -  
(July 22, 1994)

Before POLITZ, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:\*

Sidney Goodman appeals the district court's grant of partial summary judgment entered on January 25, 1990, asserting that the district court erred by treating the defendants' motion to dismiss as a motion for summary judgment without first giving him 10-day notice as required by Fed. R. Civ. P. 56(c). His argument is factually frivolous. The motion in question, filed on November 17, 1989, was specifically labeled in the alternative as

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\* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

a motion for partial summary judgment. Goodman not only responded to that motion, but moved to strike it, and in doing so specifically referred to it as one for partial summary judgment. The district court granted the motion on January 25, 1990, more than two months after it was filed. Goodman received proper notice.

To the extent that Goodman raises any other issues in his appellate brief, he has failed to address or adequately brief those issues and thus, they are deemed abandoned. Yohey v. Collins, 985, 222, 224-25 (5th Cir. 1993). Goodman's appeal raises no issue of arguable merit and is therefore frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is dismissed. 5th Cir. R. 42.2.

APPEAL DISMISSED.