

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-20283
Conference Calendar

ANGELO NAPOLEON ANSLEY ET AL. ,

Plaintiffs,

ANGELO NAPOLEON ANSLEY,

Plaintiff-Appellant,

and

MOSHE ELKAYAM,

Movant-Appellant,

versus

JERRY HODGE ET AL. ,

Defendants-Appellees.

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Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA-H-91-0273
- - - - -

(January 27, 1995)

Before POLITZ, Chief Judge, and HIGGINBOTHAM and DeMOSS,
Circuit Judges.

PER CURIAM:*

Moshe Elkayam was not entitled to intervene in this suit as of right because his motion for intervention was not timely filed. FED. R. CIV. P. 24(a) and (c), 5, and 4(m). The district court did not clearly abuse its discretion by denying Elkayam's motion for permissive intervention in a lawsuit which the court

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

had determined to be frivolous. Kneeland v. National Collegiate Athletic Ass'n, 806 F.2d 1285, 1289, (5th Cir.) cert. denied, 484 U.S. 817 (1987) (citation omitted). As the denial of Elkayam's motion for permissive intervention was within the discretion of the district court, this Court lacks jurisdiction over Elkayam's appeal. Woolen v. Surtran Taxicabs, Inc., 684 F.2d 324, 31 (5th Cir. 1982). Therefore, Elkayam's motion for appointment of counsel is DENIED and the appeal is DISMISSED as to Elkayam only.