

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-30054
Conference Calendar

RAYMOND ROCHON,

Plaintiff-Appellant,

versus

KATHY CALVERT, Accountant,
La. State Penitentiary, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. CA-92-983-A-M1
- - - - -

(May 19, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Raymond Rochon, an inmate in the Louisiana State Penitentiary at Angola, Louisiana, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 alleging various improprieties related to his prison inmate account. Rochon named Prison Accountant Kathy Calvert, Warden John P. Whitley, Secretary Richard L. Stalder, Governor Edwin W. Edwards, the Inmate Accounts Department, and the Inmate Banking Department as defendants. Inmate Accounts, Inmate Banking, and Governor

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Edwards were dismissed from the suit on July 15, 1993. On January 14, 1994, the district court granted summary judgment in favor of Calvert and Stalder. The district court denied the motion for summary judgment filed by Warden Whitley and referred that portion of the claim back to the magistrate judge for additional proceedings. Rochon filed a notice of appeal from the order of January 14, 1994.

The defendants have moved the Court to dismiss this appeal for lack of jurisdiction. Partial summary judgment orders are not final orders and are not appealable. Zimzores v. Veterans Admin., 778 F.2d 264, 266 (5th Cir. 1985); Fed. R. Civ. P. 54(b). The district court has not certified the present order for appeal. Accordingly, this Court has no jurisdiction and the appeal is DISMISSED. See Borne v. A & P Boat Rentals No. 4, Inc., 755 F.2d 1131, 1133 (5th Cir. 1985); Thompson v. Betts, 754 F.2d 1243, 1245 (5th Cir. 1985).

The defendants have moved this Court for sanctions under Fed. R. App. P. 38. Sanctions are appropriate when "the claim advanced is unreasonable, or . . . is not brought with a reasonably good-faith belief that it is justified." Clark v. Green, 814 F.2d 221, 223 (5th Cir. 1987) (internal quotation and citation omitted). There has been no showing that Rochon did not reasonably believe that the appeal of the order dismissing two of the defendants was justified. The defendants' motion for sanctions is DENIED.

APPEAL DISMISSED.