IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40550
Conference Calendar

LARRY TAYLOR,

Plaintiff-Appellant,

versus

WAYNE MCELVEEN ET AL.,

Defendants-Appellees.

- - - - - - - - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:93-CV-2034
- - - - - - - - - - -
(January 26, 1995)

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

PER CURIAM:*

Louisiana prisoner Larry Taylor argues only that his civil rights action should not have been dismissed as prescribed. His argument is frivolous for at least three reasons. First, prescription is now irrelevant to Taylor's action because a prisoner's damage claims for civil rights violations implicating the validity of a state conviction do not even accrue until the conviction has been reversed on direct appeal, expunged by executive order, invalidated by other state means, or called into

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

question by the issuance of a federal habeas writ. Heck v. Humphrey, ___ U.S. ___, 114 S. Ct. 2364, 2372, 129 L. Ed. 2d 383 (1994). Taylor has alleged no such invalidation of his conviction.

Second, in 1991, this Court dismissed the appeal of a prior dismissal of Taylor's claims. Taylor may not revitalize that appeal at this point.

Third, even if the prior district court dismissal was erroneous, Taylor has not argued that the prior judgment is not res judicata. Presentation of an issue on appeal requires that the issue be argued, not merely stated. Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993); Price v. Digital Equip. Corp., 846 F.2d 1026, 1028 (5th Cir. 1988); see Fed. R. App. P. 28(a)(5).

Thus, Taylor has indicated no basis upon which to determine that the instant dismissal for frivolousness was an abuse of discretion. See 28 U.S.C. § 1915(d); Booker v. Koonce, 2 F.3d 114, 115 (5th Cir. 1993). Taylor's brief is wholly without merit, rendering the appeal frivolous. See Coghlan v. Starkey, 852 F.2d 806, 811 (5th Cir. 1988). This appeal is dismissed as such. See 5th Cir. R. 42.2. We warn Taylor that abusing the right to proceed in forma pauperis on appeal in the future will result in sanctions.

APPEAL DISMISSED.