

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40849
Conference Calendar

WILLIAM ROBERT PARKER,

Plaintiff-Appellant,

versus

TEXAS BOARD OF PARDONS AND PAROLE,

Defendant-Appellee.

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Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:94 CV 290

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(November 17, 1994)

Before JONES, DUHÉ, and PARKER, Circuit Judges.

PER CURIAM:*

William Robert Parker filed an application for a writ of mandamus requesting that the federal district court compel the Texas Court of Criminal Appeals to rule on his state application for a writ of habeas corpus. The district court denied the application. The federal courts do not have the power to order state courts or their judicial officers to perform their duties when mandamus is the only relief requested. Moye v. Clerk, DeKalb County Superior Court, 474 F.2d 1275, 1276 (5th Cir. 1973). The district court properly denied his application.

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.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 appeal is without arguable merit and thus 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. Parker's motion to proceed in forma pauperis on appeal is DENIED as unnecessary, Fed. R. App. P. 24(a), and his motion for appointment of counsel is DENIED. See Salmon v. Corpus Christi Indep. School Dist., 911 F.2d 1165, 1166 (5th Cir. 1990)