

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-41348
Conference Calendar

BILLY RAY JOHNSON,

Plaintiff-Appellant,

versus

CHARLES G. HALL,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 5:94-CV-36
- - - - -

June 29, 1995

Before JONES, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Texas prisoner Billy Ray Johnson's court-appointed attorney is not liable to suit under 42 U.S.C. § 1983. An attorney, regardless whether he is retained, court-appointed, or a public defender, does not act under color of state law when he exercises independent professional judgment to counsel a defendant in a criminal proceeding. Polk County v. Dodson, 454 U.S. 312, 324-25 (1981)(public defender); see Mills v. Criminal Dist. Court No. 3, 837 F.2d 677, 679 (5th Cir. 1988).

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

AFFIRMED.