

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-50171
Conference Calendar

KAAZIM ABUL UMAR,
a/k/a Wesley L. Pittman,

Plaintiff-Appellant,

versus

REBECKA BURKETT
ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. W-91-CA-292
- - - - -
(September 21, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Kaazim Abul Umar, a/k/a Wesley L. Pittman, moves this Court for leave to proceed on appeal in forma pauperis (IFP). "To proceed on appeal [IFP], a litigant must be economically eligible, and his appeal must not be frivolous." Jackson v. Dallas Police Dep't, 811 F.2d 260, 261 (5th Cir. 1986).

Umar argues that the district court abused its discretion by its initial dismissal of his civil rights complaint as frivolous,

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

thus making its imposition of the \$100 sanction improper. He bases his argument on this Court's opinion, Umar v. Burkett, No. 92-8256 (5th Cir. June 15, 1993) (unpublished), which held that some of Umar's alleged claims in his complaint were improperly dismissed as frivolous. Therefore, Umar contends, the sanction should be deleted.

In the prior opinion, this Court approved the district court's imposition of sanction. This Court also added to the sanction. See Umar, No. 92-8256 at 8-9.

The "law of the case" doctrine generally precludes the reexamination of issues decided on appeal, either by the district court on remand or by the appellate court itself on a subsequent appeal. If an issue was decided on appeal -- either expressly or by necessary implication -- the determination will be binding on remand and on any subsequent appeal.

Chevron U.S.A., Inc., v. Traillour Oil Co., 987 F.2d 1138, 1150 (5th Cir. 1993) (citation omitted). The propriety of the sanction was decided by this Court on the prior appeal. Further, Umar does not argue the applicability of any of the exceptions to the law-of-the-case doctrine. Therefore, the doctrine forecloses Umar's appellate issue. See Chevron U.S.A., Inc., 987 F.2d at 1150.

Because the appeal does not involve legal points of arguable merit, see Jackson, 811 F.2d at 261, the appeal is DISMISSED as frivolous. 5th Cir. R. 42.2. Umar's motion for leave to proceed IFP is DENIED.

APPEAL DISMISSED. MOTION DENIED.