

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-50322  
Conference Calendar

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VICTOR L. WESS,

Plaintiff-Appellant,

versus

HART MICHAEL, OFFICER,  
ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. W-93-CA-141

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(September 21, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Victor L. Wess is not entitled to proceed in forma pauperis (IFP) on appeal of the dismissal of his civil rights suit because his appeal does not present a nonfrivolous legal issue. Jackson v. Dallas Police Dep't, 811 F.2d 260, 261 (5th Cir. 1986). Wess' allegations that the district court applied the wrong standard of review and made improper credibility determinations are factually incorrect. The district court did not abuse its discretion when it dismissed the excessive force claim because Wess did not

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

allege a specific injury. See Jackson v. Culbertson, 984 F.2d 699, 700 (5th Cir. 1993). Wess' allegations concerning the introduction of medical evidence at the Spears\*\* hearing are frivolous. Wess' other appellate issues were not presented to the district court, therefore this Court need not address them. Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991).

Wess' motion to appeal IFP is DENIED and the appeal is DISMISSED.

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\*\* Spears v. McCotter, 766 F.2d 179, 181-82 (5th Cir. 1985).