

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-11213
Conference Calendar

DARRELL LENARD BATES,

Plaintiff-Appellant,

versus

BILL LONG, District Clerk;
JOHN VANCE, District Attorney,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:95-CV-2631-H
- - - - -

April 16, 1996

Before DUHÉ, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:*

Darrell Lenard Bates challenges the district court's dismissal, with prejudice, of his civil rights complaint as frivolous pursuant to 28 U.S.C. § 1915(d). We have reviewed the record and find no error in the magistrate judge's analysis.

Bates' argument that the district court erred by failing to consider his complaint as a petition for the writ of habeas corpus is directly contradicted by Bates' contentions before the district court, and we do not address the argument because it is

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

made for the first time on appeal. See Highlands Ins. Co. v. National Union Fire Ins. Co., 27 F.3d 1027, 1031-32 (5th Cir. 1994), cert. denied, 115 S. Ct. 903 (1995).

Bates' request for appointed counsel is DENIED as moot.

This appeal is frivolous and therefore is DISMISSED. See 5th Cir. R. 42.2. We caution Bates that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Bates is further cautioned to review all pending appeals to ensure that they do not raise arguments that are frivolous because they have been previously decided by this court.

APPEAL DISMISSED. ADMONITION ISSUED.