

UNITED STATES COURT OF APPEALS  
FIFTH CIRCUIT

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No. 95-30890

(Summary Calendar)

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WILLIE MARTIN,

Plaintiff-Appellant,

versus

JOHN BUTLER, Captain; RONNIE FRUGE,  
Lieutenant; JOHN DOE, Sergeants;  
PAUL FONTENOT; DONNIE THOMPSON,

Defendants-Appellees,

JOHN P. WHITLEY, Warden,  
LOUISIANA STATE PENITENTIARY,

Defendant.

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Appeal from the United States District Court  
For the Middle District of Louisiana  
(92-CV-338)

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August 26, 1996

Before HIGGINBOTHAM, DUHÉ, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Willie Martin (#111528) appeals the magistrate judge's

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\* Pursuant to Local Rule 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

judgment dismissing his civil rights action. Martin contends that the jury erred in finding that defendant Butler had not violated a clearly established constitutional right. See *Hudson v. McMillian*, 503 U.S. 1 (1992); *Rankin v. Klevenhagen*, 5 F.3d 103, 105 (5th Cir. 1993). Martin has moved for production of the trial transcripts at Government expense and for leave to file a supplemental brief. The jury's credibility determination of the reasonableness of Butler's conduct will not be disturbed by this court on appeal, and the transcripts are not necessary for the resolution of this issue. *Harvey v. Andrist*, 754 F.2d 569, 571 (5th Cir.), cert. denied, 471 U.S. 1126 (1985); see 28 U.S.C. § 753(f). Martin has not identified any other issues for appeal. The motions for production of the transcripts at Government expense and for leave to file a supplemental brief are DENIED.

Martin has moved for appointment of counsel. Because this case does not present "exceptional circumstances" warranting the appointment of counsel, the motion is DENIED. *Cooper v. Sheriff, Lubbock County, Tex.*, 927 F.2d 1078, 1084 (5th Cir. 1991).

Because the appeal is frivolous, it is DISMISSED. *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2. We warn Martin that any additional frivolous appeals filed by him or on his behalf will invite the imposition of sanctions. To avoid sanctions Martin is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous

because they have been previously decided by this court.

APPEAL DISMISSED. ALL MOTIONS DENIED. SANCTION WARNING  
ISSUED.