

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-40333
Conference Calendar

ELLIS BURRELL,

Plaintiff-Appellant,

versus

B. TORRES, Sergeant; S. DELGADO,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-94-CV-555
- - - - -

(October 19, 1995)

Before POLITZ, Chief Judge, and REAVLEY and SMITH, Circuit Judges.

PER CURIAM:*

Ellis Burrell's motion to proceed in forma pauperis on appeal from the magistrate judge's order denying his application for appointment of counsel in the district court is DENIED. The order of the magistrate judge is not appealable to this court. See Trufant v. Autocon, Inc., 729 F.2d 308, 309 (5th Cir. 1984). Burrell also seeks to appeal the denial of pauper status in the district court. However, review is not available because no

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

order has been entered in the district court denying leave to proceed in forma pauperis in that court.

On appeal Burrell can present no legal points arguable on their merits, and the appeal is frivolous. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983). For this reason, the motions to supplement the record on appeal and to appoint counsel on appeal are also DENIED. Because the appeal is frivolous, it is DISMISSED. See 5th Cir. Rule 42.2.

We caution Burrell that any additional frivolous appeals filed by him or on his behalf will invite the imposition of sanctions. To avoid sanctions, Burrell 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.