

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-40513
Conference Calendar

ROBERT WAYNE MITCHELL,

Plaintiff-Appellant,

versus

FREDERICK L. BROWN, Sgt. of High Security
at Michael Unit,
HEROD NICHERSON, JR., CO III in High Security
at Michael Unit,
JIMMY E. ALFORD, Warden,

Defendants-Appellees.

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Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:94-CV-714

- - - - -
December 20, 1995

Before DAVIS, STEWART, and PARKER, Circuit Judges.

PER CURIAM:*

Robert W. Mitchell, a prisoner of the State of Texas, appeals from the judgment of the district court dismissing his civil rights action pursuant to 28 U.S.C. § 1915(d). Mitchell argues that his punishment for not obeying an order to remove his hands from his pockets violated due process because he did not

* Local Rule 47.5.1 provides: "The publication of opinions that 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 Pursuant to that Rule, the court has determined that this opinion should not be published.

have fair warning and that the officers' conduct violated the Eighth Amendment because he suffered psychological injury. We have reviewed the record and the district court's opinion and find no reversible error. Mitchell's motion to amend his complaint is DENIED.

On appeal, Mitchell 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). Because the appeal is frivolous, it is DISMISSED. See 5th Cir. Rule 42.2. We caution Mitchell that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Mitchell 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.