

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-40617
Conference Calendar

REYES FLORES,

Plaintiff-Appellant,

versus

JIMMY E ALFORD, Warden; ROBERT J PARKER;
IEASHA M HAYNES; DERRICK BLAKEMORE,

Defendants-Appellees.

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Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:94-CV-913

- - - - -
December 19, 1995

Before DAVIS, STEWART, and PARKER, Circuit Judges.

PER CURIAM:*

Flores appeals from the district court's judgment dismissing his civil rights action filed under 42 U.S.C. § 1983 for an excessive use of force. Flores argues that his factual allegations show that Haynes and Blakemore subjected him to cruel and unusual punishment in violation of the Eighth Amendment. Flores challenges the factual findings made by the magistrate judge after a bench trial. Flores also argues that Officers Haynes and Blakemore filed their answers beyond the 20-day time limit set by the magistrate judge in her order. He also argues

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

that Attorney Kosanovich was present at trial after Edward Sanchez was substituted as attorney for the defendants.

We have reviewed the record and the district court's opinion and find no reversible error in relation to the filing of the defendants' answers and the substitution of counsel issues. Further, review of the magistrate judge's findings depends on a trial transcript. Flores has failed to provide a transcript. These issues are therefore meritless. See Fed. R. App. P. 10(b); Powell v. Estelle, 959 F.2d 22, 26 (5th Cir.), cert. denied, 113 S. Ct. 668 (1992); Richardson v. Henry, 902 F.2d 414, 416 (5th Cir.), cert. denied, 498 U.S. 901 (1990) (citation omitted). Accordingly, Flores' appeal is DISMISSED AS FRIVOLOUS. See 5th Cir. R. 42.2.

We caution Flores that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Flores 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.