

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-40713
Summary Calendar

WILLIE CRAWFORD BENNETT,

Plaintiff-Appellant,

versus

JAMES A. COLLINS, DIRECTOR, TEXAS
DEPARTMENT OF CRIMINAL JUSTICE,
INSTITUTIONAL DIVISION; WAYNE SCOTT;
J. ZELLER; J. FENNIMORE,

Defendants-Appellees.

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Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-95-CV-145
- - - - -

January 30, 1996

Before WIENER, PARKER and DENNIS, Circuit Judges.

PER CURIAM:*

William Crawford Bennett appeals from the district court's order denying his request for a preliminary injunction. Bennett requested, among other relief, that the district court grant him a temporary restraining order or preliminary injunction restraining prison officials from retaliating against him or transferring him during the pendency of the suit.

The record indicates that Bennett has been transferred; nevertheless, Bennett does not mention any injury resulting from

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

the transfer in his appeal. Accordingly, that issue has been waived. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987) (issues which are not briefed are waived). Bennett's other issues concern incidents or conditions on the Chase Field West Unit. As Bennett has been moved from that unit without objection, those issues are moot. See Powell v. McCormack, 395 U.S. 486, 496 (1969) ("Simply stated, a case is moot when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome."). Because the issue is moot, the appeal is frivolous and is DISMISSED. See 5TH CIR. R. 42.2.

Bennett has not shown that he requires the appointment of counsel on appeal; therefore, his motion for appointment of counsel is DENIED. Bennett's request for publication is also DENIED, as his case does not meet the criteria for publication.

Bennett is cautioned that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Bennett 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.