

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-50546
USDC No. SA-94-CV-835

BERNARD WASHINGTON,

Plaintiff-Appellant,

versus

GARY BURGESS; RAUL CALDERON; DARRYL ACKER,
UNK JACKSON, Safety Director at the Torres
Unit in Hondo, Texas; D.L. STACKS, Warden of
the Torres Unit; JAMES A. COLLINS, Director,
Texas Department of Criminal Justice,
Institutional Division,

Defendants-Appellees.

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Appeal from the United States District Court
for the Western District of Texas
- - - - -

November 27, 1995

Before JOLLY, JONES and STEWART, Circuit Judges.

PER CURIAM:*

IT IS ORDERED that Bernard Washington's motion for leave to proceed in forma pauperis is DENIED, because his appeal lacks arguable merit and is therefore frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, IT IS FURTHER ORDERED that Washington's motion

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

requesting relief is DENIED and the appeal is DISMISSED. See 5th Cir. R. 42.2.

Washington's pleadings fail to allege that any of the defendants-appellees did or failed to do anything which actually harmed him and which amounted to more than ordinary negligence. Accordingly, the district court was correct dismissing the action as frivolous on authority of 28 U.S.C. § 1915(d).

In his brief, Washington also makes conclusional allegations that some of the appellees conspired against him. This court will not address this issue because it was not presented to the district court.

MOTIONS DENIED; APPEAL DISMISSED.