

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-50929  
Summary Calendar

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SHELLY LEON BRYANT,

Plaintiff-Appellant,

versus

EDIE RUBALCABA, The State of Texas,  
County of El Paso, District Clerk;  
MARVIN PETERSEN, Chief Deputy Clerk;  
PEDRO VALDEZ, Deputy Clerk; SEAN VASQUEZ,  
Deputy Clerk,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. EP-95-CV-270  
- - - - -

May 16, 1996

Before GARWOOD, WIENER, and PARKER, Circuit Judges.

PER CURIAM:\*

Appellant appeals from the district court's order dismissing his 42 U.S.C. § 1983 action for failure to state a claim under Fed. R. Civ. P. 12(b)(6). Appellant argues that the district court erred in dismissing his § 1983 action because his complaint and amended complaint alleged sufficient facts to state claims for violations of the Texas Open Records Act, his due process

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

right of access to the courts, and his First, Fifth, Sixth, and Fourteenth Amendment rights.

Appellant argues that the district court erred in dismissing as moot his claim regarding his state nunc pro tunc motions. Although the district court erred in considering information outside of the pleadings in ruling on the Fed. R. Civ. P. 12(b)(6) claim, the error was harmless because appellant may not challenge the correctness of a state court ruling in a § 1983 action. See Liedtke v. State Bar of Texas, 18 F.3d 315, 317 (5th Cir. 1994).

We have reviewed the record, the district court's opinion concerning appellant's other claims, and appellant's brief, and conclude that appellant has failed to raise a constitutional issue. Appellant's appeal is frivolous and is DISMISSED. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); see 5th Cir. R. 42.2. We caution appellant that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, appellant 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; SANCTION WARNING ISSUED.