

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-10122
(Summary Calendar)

JOHN DOWD BEARD,

Plaintiff-Appellant,

versus

STATE OF TEXAS; DISTRICT ATTORNEY'S
OFFICE, Dallas County; ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
(USDC No. 3:94-CV-2619-D)
- - - - -

May 15, 1996

Before GARWOOD, WIENER and PARKER, Circuit Judges.

PER CURIAM:*

Appellant John Beard contends that the district court abused its discretion by dismissing his civil rights action as frivolous pursuant to 28 U.S.C. § 1915(d). Beard's contention that the district court erred by relying on his answers to interrogatories has no arguable merit. See Eason v. Thaler, 14 F.3d 8, 9 (5th Cir. 1994). His claim that he is entitled to relief because he was

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

arrested on a charge of possessing more than 28 grams of cocaine with intent to deliver, but indicted for and convicted of such possession involving only one-half gram of cocaine, lacks merit as a matter of law. See United States v. Saunders, 476 F.2d 5, 7 (5th Cir. 1973); Eason, id.²

JUDGMENT AFFIRMED.

² Beard's motion to supplement his brief is granted.