

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-10429
Summary Calendar

HAROLD GRAY HAYS,

Plaintiff-Appellant,

versus

DRUG ENFORCEMENT ADMINISTRATION et al.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
(4:95-CV-741-G)
- - - - -

December 20, 1996

Before SMITH, DUHÉ, and BARKSDALE, Circuit Judges.

PER CURIAM:¹

Harold Gray Hays, #55111-079, appeals from the district court's grant of a motion for summary judgment in favor of the defendants in his suit under the Tucker Act. Hays contends that the district court erred in holding that this case was barred by res judicata because of a district court order denying a Fed. R. Crim. P. 41(e) motion for return of seized property previously filed by Hays against the United States.

¹ Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.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 district court did not err in finding that all of the technical requirement of res judicata have been met. See Travelers Ins. Co. v. St. Jude Hosp. of Kenner, Louisiana, Inc., 37 F.3d 193, 195 (5th Cir. 1994), cert. denied, 115 S. Ct. 1696 (1995). Hays' action and appeal are malicious. See Bailey v. Johnson, 846 F.2d 1019, 1021 (5th Cir. 1988). The appeal is DISMISSED. 5th Cir. Rule 42.2.

We caution Hays that any additional frivolous or malicious appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Hays is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous or malicious.

APPEAL DISMISSED. SANCTION WARNING ISSUED.