IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

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No. 96-10925
Conference Calendar

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VINCENT JOHN BROWN,

                                        Plaintiff-Appellant,

versus

GARY L. JOHNSON, Director, ET AL.,

                                        Defendants-Appellees.

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Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:96-CV-227
- - - - - - - - - -
October 24, 1996
Before POLITZ, Chief Judge, and JOLLY and HIGGINBOTHAM, Circuit Judges.

PER CURIAM:[*]

     Vincent John Brown, Texas inmate # 437587, challenges the

district court's dismissal, as frivolous, of his civil rights

complaint. For essentially the same reasons as relied upon by

the district court in its order of dismissal, we conclude that

the district court did not abuse its discretion by concluding

that the complaint lacked an arguable basis in law. See Brown v.

Johnson, No. 2:96-CV-0227 (N.D. Tex. July 11, 1996).

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For the first time on appeal, Brown contends that his complaint is maintainable because the defendants purportedly violated Texas law and the Food, Drug, and Cosmetic Act's saccharin-warning provisions. No error, plain or otherwise, ensued by the district court's failure to consider this argument; the outcome would not be altered. See Highlands Ins. v. National Union Fire Ins., 27 F.3d 1027, 1031-32 (5th Cir. 1994) (applying plain-error standard in civil case to issue raised for the first time on appeal), cert. denied, 115 S. Ct. 903 (1995).

This appeal is without arguable merit and is thus frivolous. 5th Cir. R. 42.2. It is DISMISSED. We caution Brown that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Brown is further cautioned to review all 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.