

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-10977
Summary Calendar

JESSIE JAMES CALLOWAY,

Plaintiff-Appellant,

versus

WEBB, Sgt., Co. 3, ET AL.,

Defendants,

WEBB, Sgt., Co. 3,

Defendant-Appellee.

Appeal from the United States District Court
For the Northern District of Texas
(1:95-CV-33)

January 30, 1998

Before POLITZ, Chief Judge, WIENER and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Jessie James Calloway appeals the district court's dismissal of the unnamed defendants and the judgment as a matter of law in favor of defendant Webb in this

*Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

civil rights excessive-use-of-force suit filed under 42 U.S.C. § 1983. Calloway contends that the district court abused its discretion in denying his requests for appointed counsel.

Our review of the appellate record herein persuades that the district court abused its discretion by denying Calloway's motion for appointment of counsel without considering the facts set forth in **Ulmer v. Chancellor**.¹ Accordingly, we must vacate the order dismissing the unnamed defendants and the judgment in favor of Webb and remand the case in order that the district court may consider Calloway's request for appointment of counsel under the appropriate standard.²

In light of this disposition, we need not address the issues raised respecting a transcript for use on this appeal.

VACATED and REMANDED.

¹ 691 F.2d 209 (5th Cir. 1982).

² See **Murphy v. Kellar**, 950 F.2d 290 (5th Cir. 1992).