

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-30016
Conference Calendar

BILLIE DEAN HOLIWAY,

Plaintiff-Appellant,

versus

JOEY DAVIDSON; ROLAND T. KAY;
MIKE WORLEY; PAUL BLUNSCHI; DAVID BUFFINGTON;
BILLY JORDAN; JOE DAVIS; GLEN SPRINGFIELD;
ROYCE TONEY,

Defendants-Appellee.

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Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 95-CV-1665-M
- - - - -

April 19, 1996

Before DUHÉ, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:*

Billie Dean Holiway appeals the dismissal of his civil rights action as frivolous. Holiway contends that he was deprived of property without due process and that police violated his Fourth Amendment rights when they seized his property.

We have reviewed the record and Holiway's brief and we find that Holiway's due process contention is frivolous for the reasons stated by the magistrate judge and relied upon by the

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

district court. *See Holiway v. Davidson*, No. 95-CV-1665-M (W.D. La. Nov. 16, 1995)(magistrate judge's report). Resolution of Holiway's Fourth Amendment contention, raised for the first time on appeal, would require us to make factual determinations initially on appeal. Holiway has failed to present us with a basis for finding that the district court plainly erred because it found no Fourth Amendment violation. *See Highlands Ins. Co. v. National Union Fire Ins. Co.*, 27 F.3d 1027, 1032 (5th Cir. 1994), *cert. denied*, 115 S. Ct. 903 (1995).

We caution Holiway that any additional frivolous appeals filed by him or on his behalf will invite the imposition of sanctions. To avoid sanctions, Holiway 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. *See* 5TH CIR. R. 42.2. SANCTION WARNING
ISSUED.