

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-30540
Conference Calendar

ALPHONSO SMITH,

Plaintiff-Appellee,

versus

JOHN P. WHITLEY, WARDEN, LOUISIANA STATE PENITENTIARY,
CHRISTOPHER DUPAS; ROBERT CURRY, a/k/a John Doe,

Defendants-Appellants.

- - - - -
Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 93-CV-524
- - - - -
February 24, 1997

Before SMITH, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:*

The defendants in Louisiana prisoner Alphonso Smith's civil rights action appeal the magistrate judge's denial of their motion for attorney's fees under 42 U.S.C. § 1988. They contend that the long-standing rule allowing attorney's fees for prevailing defendants only when a plaintiff's action is frivolous is wrong and that the rule violates equal protection principles.

We have reviewed the record and the briefs of the parties

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

and we find no nonfrivolous issues. We dismiss the appeal for essentially the reasons relied upon by the magistrate judge.

Smith v. Whitley, No. 93-524-A-1 (M.D. La. Apr. 9, 1996).

APPEAL DISMISSED. 5TH CIR. R. 42.2.