

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-31253
Conference Calendar

RODNEY C. CURRY,

Plaintiff-Appellant,

versus

DAVID M. DICKSON, Attorney at Law, Public
Defender's Office,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 96-CV-3158
- - - - -

June 18, 1997

Before SMITH, STEWART, and DENNIS, Circuit Judges.

PER CURIAM:*

Rodney C. Curry, Louisiana inmate #180222, appeals the dismissal, without prejudice, as frivolous of his civil rights complaint against his former court-appointed counsel. For the first time on appeal, Curry argues that the defendant conspired with individuals, acting under color of state law, to deprive him of his constitutional rights. We have carefully reviewed 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* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

appellate record. For essentially the same reasons as relied upon by the district court by adopting the magistrate judge's report, see Curry v. Dickson, No. 96-3158 (E.D. La. Nov. 18, 1996), we conclude that the district court did not abuse its discretion in dismissing the complaint as frivolous. See Denton v. Hernandez, 504 U.S. 25, 33 (1992). Curry's conspiracy claim is conclusional and thus, does not amount to plain error.

The appeal is without merit and is frivolous. See 5th Cir. R. 42.2. Therefore, the appeal is DISMISSED. We caution Curry that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Curry 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.