

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-40466
Conference Calendar

SAMUEL CITIZEN,

Plaintiff-Appellant,

versus

THE STATE OF TEXAS,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:96-CV-15
- - - - -

August 22, 1996

Before KING, DUHÉ, and DEMOSS, Circuit Judges.

PER CURIAM:*

Texas prisoner Samuel Citizen, # 664839, appeals the district court's dismissal of his 42 U.S.C. § 1983 suit seeking monetary damages for wrongful imprisonment based on an allegedly invalid conviction. The district court determined that the complaint was frivolous because a § 1983 claim had not accrued under Heck v. Humphrey, 114 S. Ct. 2364 (1994).

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

Citizen does not suggest that his conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by an authorized state tribunal, or called into question by a federal court's issuance of a writ of habeas corpus under 28 U.S.C. § 2254; thus, he has failed to allege a claim cognizable under § 1983. See Heck, 114 S. Ct. at 2372.

The appeal, which is frivolous, is DISMISSED. 5th Cir. R. 42.2. We CAUTION Citizen that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Citizen is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED; SANCTION WARNING ISSUED.