

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-41247
Conference Calendar

WOODROW GILBERT,

Plaintiff-Appellant,

versus

MICHAEL J. McCAULEY, Correctional Officer,
Michael Unit; HEROD NICKERSON, JR.,
Correctional Officer, Michael Unit,

Defendants-Appellees.

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Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:95-CV-591
- - - - -

June 16, 1998

Before DAVIS, PARKER, and DENNIS, Circuit Judges.

PER CURIAM:*

Woodrow Gilbert, Texas prisoner #489215, appeals from the magistrate judge's dismissal following a bench trial of Gilbert's 42 U.S.C. § 1983 civil rights complaint. This court must examine the basis of its own jurisdiction if necessary. Mosley v. Cozby, 813 F.2d 659, 660 (5th Cir. 1987). The magistrate judge having determined that, based on the documents submitted by prison officials, the notice of appeal was delivered more than 30 days

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

after the entry of judgment, Gilbert's notice of appeal is untimely, and his appeal is DISMISSED for lack of jurisdiction. See Fed. R. App. P. 4(a)(1); Mosley, 813 F.2d at 660. Gilbert's motion for the appointment of counsel is DENIED.

APPEAL DISMISSED; MOTION DENIED.