

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-50104
USDC No. W-94-CV-140

DANIEL T. PLOOF,

Plaintiff-Appellant,

versus

W. GOOD, JR.,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
- - - - -

April 15, 1997
Before SMITH, DUHE' and BARKSDALE, Circuit Judges.

PER CURIAM:*

Daniel T. Ploof (Texas inmate #642997), moves this court for leave to appeal *in forma pauperis* (IFP) under the Prison Litigation Reform Act of 1995 (PLRA) in his appeal from the district court's dismissal of his suit pursuant to FED. R. CIV. P. 41(b) for failure to prosecute. The motion for leave to proceed IFP is GRANTED.

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

The PLRA requires a prisoner appealing IFP in a civil action to pay the full amount of the filing fee, \$105. As Ploof does not have funds for immediate payment of this fee, he is assessed a partial filing fee of 96¢ in accordance with 28 U.S.C. § 1915(b)(1). Following payment of the partial filing fee, funds shall be deducted from Ploof's prisoner account until the full filing fee is paid. *Id.*

IT IS ORDERED that Ploof pay the appropriate filing fee to the Clerk of the District Court for the Western District of Texas. IT IS FURTHER ORDERED that the agency having custody of Ploof's inmate account shall collect the remainder of the \$105 filing fee and forward for payment to the Clerk of the District Court for the Western District of Texas in accordance with 28 U.S.C. § 1915(b)(2).

A review of the trial transcript reveals no reversible error; Ploof's conduct at trial rose to a level warranting dismissal with prejudice for failure to prosecute. *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988); *Boudwin v. Graystone Ins. Co.*, 756 F.2d 399, 401 (5th Cir. 1985); *Berry v. CIGNA/RSI-CIGNA*, 975 F.2d 1188, 1191 (5th Cir. 1992).

The decision is AFFIRMED.