

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-50119
Summary Calendar

BENJAMIN EDWIN FORSYTHE,

Plaintiff-Appellant,

versus

THOMAS JAMES MCKINNEY;
ROBBIE J. PROCTOR,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. W-95-CV-264
- - - - -

May 30, 1996

Before DAVIS, BARKSDALE and DeMOSS, Circuit Judges.

PER CURIAM:*

Benjamin Forsythe moves this court for in forma pauperis (IFP) status to appeal the district court's order dismissing his civil rights action under 42 U.S.C. § 1983. Forsythe's allegation that prison officials violated his Eighth Amendment rights by failing to place him in protective custody is without merit. Forsythe's assertions do not establish that 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* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

defendants could have reasonably inferred from his unsubstantiated complaints that he faced a substantial risk of harm from other inmates. See Farmer v. Brennan, 114 S. Ct. 1970, 1979 (1994). As Forsythe fails to state a nonfrivolous issue on appeal, his motion for leave to proceed IFP is DENIED. Because the appeal is frivolous, the appeal is DISMISSED. See 5th Cir. R. 42.2.