

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-50602
Conference Calendar

ANTHONY RAY NEELY,

Plaintiff-Appellant,

versus

RANDOLPH T. MCVEY, ADMINISTRATOR
OF INMATE GRIEVANCES, TEXAS DEPARTMENT
OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION,,

Defendant-Appellee.

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Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-96-CV-475
- - - - -

April 16, 1997

Before REAVLEY, DAVIS, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Anthony Ray Neely, Texas prisoner #677814, appeals the district court's dismissal, as frivolous pursuant to 28 U.S.C. § 1915(e), of his 42 U.S.C. § 1983 civil rights complaint. He has filed a motion for leave to proceed in forma pauperis (IFP) on appeal. The motion for leave to appeal IFP is GRANTED.

An initial partial filing fee of \$1.83 will be assessed.

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

See 28 U.S.C. § 1915(b)(4). Neely also shall make monthly payments of twenty percent of the preceding month's income credited to his account. See 28 U.S.C. § 1915(b)(2). The agency having custody of Neely is directed to forward payments from his prisoner account to the clerk of the district court each time the amount in his account exceeds \$10 until the filing fee of \$105 is paid. See id.

Neely contends that the district court erred in dismissing his § 1983 action. We have reviewed the record and Neely's brief and find no error in the reasoning of the district court. See Neely v. McVey, No. SA 96 CA 475 (W.D. Tex. July 24, 1996). Neely has not demonstrated legal prejudice in his denial-of-access-to-the-court claim. See Lewis v. Casey, 116 S. Ct. 2174, 2179-81 (1996). Neely was afforded an opportunity to plead his best case. See Jacquez v. Procunier, 801 F.2d 789, 793 (5th Cir. 1986). We decline to consider Neely's inadequately briefed sanctions claim. See Yohey v. Collins, 985 F.2d 222, 225 (5th Cir. 1993).

Neely's appeal is without arguable merit and, thus, frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5th Cir. R. 42.2.

Neely is cautioned that any future frivolous appeals filed by him or on his behalf will invite the imposition of sanctions. Neely is cautioned further to review any pending appeals to

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ensure that they do not raise arguments that are frivolous.

IFP GRANTED; APPEAL DISMISSED; SANCTION WARNING ISSUED.