

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-60391
Conference Calendar

DARILE JOHNSON,

Plaintiff-Appellant,

versus

RAYMOND ROBERTS; MIKE MOORE;
STEVE W. PUCKETT; KIRK FORDICE,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 4:96-CV-135-B-D
- - - - -

December 11, 1996

Before WIENER, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Darile Johnson, No. 83789, a Mississippi state prisoner, appeals the dismissal with prejudice of his 42 U.S.C. § 1983 action as frivolous. Johnson maintains that his incarceration in the penitentiary, rather than a county detention facility, prior to the determination of his direct appeal is unconstitutional. There is no constitutionally protected interest surrounding an inmate's confinement in the general prison population, only that

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

an inmate be confined under conditions consistent with his sentence. McCrae v. Hankins, 720 F.2d 863, 866 (5th Cir. 1983). Johnson's allegations do not show a constitutional violation. See Thomas v. Torres, 717 F.2d 248, 248-49 (5th cir. 1983), cert. denied, 456 U.S. 1010 (1984). Johnson's appeal is DISMISSED as frivolous. See 5th Cir. R. 42.2.

We caution Johnson that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Johnson is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED; SANCTIONS WARNING ISSUED.