

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-60475
Summary Calendar

LOUIS DAVIS, JR.,

Plaintiff-Appellant,

versus

STATE OF MISSISSIPPI; JOSEPH
W. GEX; JAMES G. TUCKER, III;
CHARLES E. WOOD; MISSISSIPPI BAR,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 1:96CV190BrR

LOUIS DAVIS, JR.,

Plaintiff-Appellant,

versus

JAMES G. TUCKER, III,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 1:96CV288BrR

June 20, 1997

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Before DAVIS, EMILIO M. GARZA and STEWART, Circuit Judges:

PER CURIAM:*

Louis Davis, Jr., Mississippi prisoner #16425, appeals the dismissal of his civil rights complaint as frivolous. He has filed a motion for leave to proceed in forma pauperis (IFP) on appeal. The motion for leave to appeal IFP is GRANTED.

Davis is not required to pay an initial partial filing fee; however, he shall make monthly payments of twenty percent of the preceding month's income credited to his account. See 28 U.S.C. § 1915(a). The agency having custody of Davis 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 is paid. See id.

Davis' trial and appellate counsel are private parties and therefore are not state actors under 42 U.S.C. § 1983. Adickes v. S. H. Kress & Co., 398 U.S. 144, 152 (1970); Hobbs v. Hawkins, 968 F.2d 471, 480 (5th Cir. 1992). The state prosecutor is entitled to absolute prosecutorial immunity. Boyd v. Biggers, 31 F.3d 279, 285 (5th Cir. 1994). The State of Mississippi and the Mississippi Bar, as an "arm" of the state, are absolutely immune from suit under the Eleventh Amendment. Nordgren v. Hafter, 789 F.2d 334, 336-37 (5th Cir.); Voisin's Oyster House, Inc. v. Guidry, 799 F.2d 183, 186 (5th Cir. 1986).

Davis' 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. The motion to file supplemental briefs is DENIED.

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.