

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-20300
Summary Calendar

LESLIE WILLIAM MORGAN,

Plaintiff-Appellant,

versus

MICHAEL COKER ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-96-CV-203
- - - - -

August 13, 1998

Before KING, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:*

Leslie William Morgan, Texas prisoner # 677163, appeals the district court's dismissal as frivolous his claims of malpractice and conspiracy against his counsel and subsequent grant of summary judgment in favor of the remaining defendants in his civil rights action under 42 U.S.C. § 1983. Morgan's claims against all of the defendants, including his counsel, are frivolous under Heck v. Humphrey, 512 U.S. 477 (1994). A judgment in favor of Morgan on his § 1983 claim would necessarily imply the invalidity of his second conviction. See Hudson v. Hughes, 98 F.3d 868, 872-73 (5th

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Cir. 1996); Hamilton v. Lyons, 74 F.3d 99, 103 (5th Cir. 1996); Wells v. Bonner, 45 F.3d 90, 95 (5th Cir. 1995). Because Morgan has not demonstrated that his second conviction has been invalidated, his claims against the defendants are not cognizable in a § 1983 action. Heck, 512 U.S. at 486-87.

Morgan's appeal is without arguable merit and is 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. All outstanding motions of both parties are DENIED.

Additionally, Morgan is warned that future frivolous appeals will invite the imposition of sanctions. Morgan should review any pending appeals to ensure that they do not raise frivolous arguments.