

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-20814
Summary Calendar

DILIP K. PAUL,

Plaintiff-Appellant,

versus

PB-KBB, INC.; PARSON, BRINKERHOFF,
QUADE & DOUGLAS, INC.; BATTELLE MEMORIAL
INSTITUTE (Project Management Division);
ANSON D. PHIPPS; ROBERT M. WOOD;
PAUL BOULON; QUADE & DOUGLAS,

Defendants-Appellees.

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Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA H 97-1004
- - - - -

July 10, 1998

Before JOLLY, BENAVIDES, and PARKER, Circuit Judges.

PER CURIAM:*

Delip K. Paul has appealed the district court's orders refusing to remand this action, which was removed from the state court, and dismissing the action under the doctrine of res judicata.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

IT IS ORDERED that the appellees' motion for leave to supplement their brief with a copy of a motion filed by Paul in a prior federal action is GRANTED. Paul's motion for leave to supplement the record on appeal with the record from the appeal in the prior federal action is DENIED.

Paul's nonjurisdictional challenges to the removal were waived by his untimely remand motion. See Pavone v. Mississippi Riverboat Amusement Corp., 52 F.3d 560, 566 (5th Cir. 1995). Essentially for reasons stated by the district court, we hold that the district court did not err in finding that Paul's claims are barred under the doctrine of res judicata. See United States ex rel. Paul v. PB-KBB, Inc., No. H-97-1004 (S.D. Tex. July 1, 1997). Because the appeal is frivolous, it is DISMISSED. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2.

Appellees have moved the court for an order requiring Paul to pay their damages and costs. Paul was previously warned that the filing of frivolous appeals would result in the imposition of a sanction. IT IS ORDERED that the appellees' motion is GRANTED. Fed. R. App. P. 38. Paul must reimburse the appellees for their costs and reasonable attorneys' fees incurred in pursuing this appeal. Appellees should move the district court for an order determining their costs and fees. Paul's motion for a sanction against the appellees is DENIED.

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APPEAL DISMISSED; APPELLEES' MOTIONS GRANTED; APPELLANT'S
MOTIONS DENIED.