

**UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 97-40797
Consolidated with No. 97-41238
Summary Calendar

WILLIE BERRY, JR.,

Plaintiff-Appellant,

versus

TIMOTHY WEST; TROY
SIMPSON, LIEUTENANT,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
(1:96-CV-168)

January 11, 1999

Before POLITZ, Chief Judge, STEWART and PARKER, Circuit Judges.

PER CURIAM:*

Willie Berry, Jr., a Texas state prisoner, appeals the dismissal of his civil rights action for want of prosecution, and the order directing that he pay a partial appellate filing fee. Berry briefs neither issue. This failure constitutes an abandonment of this

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

appeal.¹ Therefore this appeal must be and is DISMISSED as frivolous.²

¹ **Al-Ra'id v. Ingle**, 69 F.3d 28 (5th Cir. 1995).

² 5th Cir. R. 42.2.